STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. BURRILLVILLE PLANNING BOARD

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IN RE:

MAJOR SUBDIVISION/LAND DEVELOPMENT

INVENERGY THERMAL DEVELOPMENT, LLC'S

CLEAR RIVER ENERGY CENTER,

WALLUM LAKE ROAD, BURRILLVILLE;

MAP 120, LOT 7; MAP 135, LOT 2;

MAP 137, LOTS 1, 2, 3 & 21; MAP 153,

LOTS 1 & 2:

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MASTER PLAN REVIEW/INFORMATIONAL MEETING

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HEARD before the Burrillville Planning Board
at the Burrillville High School Auditorium,

425 East Avenue, Harrisville, Rhode Island

on August 22, 2016 at 6:00 p.m.

PLANNING BOARD MEMBERS PRESENT

Mr. Jeff Partington, Chairman
Mr. Christopher Desjardins
Mr. Marc Tremblay
Mr. Dov Pick
Mr. Leo Felice
Mr. Mike Lupis
Mr. Bruce Ferreira
Mr. Robert Woods (Recused.)

ALSO PRESENT

Mr. Thomas Kravitz,
Planning Director

Ms. M. Christine Langlois,
Deputy Planner

PLANNING BOARD MEMBERS EXCUSED

Mr. Jeffrey Presbrey

APPEARANCES

MICHAEL R. McELROY, ESQUIRE . . SPECIAL COUNSEL FOR
THE TOWN OF BURRILLVILLE

ADLER, POLLOCK & SHEEHAN P.C.
BY: ALAN SHOER, ESQUIRE . . . . . . FOR INVENERGY
IN RE: BURLINGTON PLANNING BOARD HEARING ON

MAJOR SUBDIVISION/LAND DEVELOPMENT

FOR

INVENERGY THERMAL DEVELOPMENT, LLC

AUGUST 22, 2016

(Meeting commenced at 6:06 p.m.)

MR. PARTINGTON: Good evening, ladies and gentlemen. I'm going to bring this meeting to order.

First on the agenda is the attendance review.

Mr. Presbrey was out of town.

Next is the acceptance of the minutes. We do have minutes from August 15th, 2016.

MR. FERREIRA: Make a motion to accept.

MR. PARTINGTON: I have a motion to accept.

MR. FELICE: Second.

MR. PARTINGTON: Second. Any discussion?

(Pause and no response.) All those in favor?

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

MR. PARTINGTON: Any opposed?

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

MR. PARTINGTON: Okay, correspondence. No correspondence.

Okay, next is Major Subdivision/Land
Development, Invenergy Thermal Development, LLC,
Clear River Energy Center, Wallum Lake Road,
Burrillville, Map 120, Lot 7; Map 135, Lot 2;
Map 137, Lots 1, 2, 3 and 21; Map 153, Lots 1 and 2.
Master Plan Review/Informational Meeting, continued
from June 20th, July 11th and August 15th, 2016.

So, this evening we have the advisory opinion
which was drawn by Mike and Tom. And, gentlemen,
would you like to lead us through this?

MR. KRAVITZ: I thought what we were going to do
this evening is you guys, of course, all had this.
I believe it was Friday it went out. So, we were
just going to poll the Board.

MR. PARTINGTON: Yup.

MR. KRAVITZ: If you had any changes that you
wanted to make to this, you articulate those, and we
could go one member at a time, and I think for the
benefit of the public, you know, we, of course,
articulate those here and decide upon them tonight;
and then this opinion would get published. I assume
we could do it on the Town's website, you know,
meeting thereafter.

MR. PARTINGTON: Correct, so we'll need -- and
this evening we'll be looking for two votes. One
would be to either accept or accept with revisions
the advisory opinion; and then also we need to vote on the Noise Ordinance again, which there's been significant correspondence back and forth on that, which I believe everyone has seen. Correct?

MR. PICK: Was it --

MR. KRAVITZ: Speak into the mike. Grab the mike. Please take it out. You might have to pass it.

MR. PICK: Is it just the octave band, or is it the entire noise --

MR. PARTINGTON: It would be in compliance -- whether it's in compliance with the Noise Ordinance or if -- for the octave band and the Noise Ordinance itself. I believe, if I'm not mistaken, Mr. Tremblay last time brought up the point about the effect on wildlife; and I believe, if you look through the emails, you will find that that question has been answered so that, hopefully, because that answer is in place, hopefully, that will allow us to go forward on that, okay.

So, gentlemen, we have a choice, and I'll yield to what you'd like to do. Each of -- there are several sections, obviously, to this advisory opinion. Would you care to go page by page, or would you care to simply give your comments on what is
here?

MR. TREMBLAY: The second.

MR. PARTINGTON: The second one, all right.

Everyone feel good about that? Chris, in that case, we're going to start with you.

MR. DESJARDINS: After reading through the advisory opinion, I actually don't have any additional changes. Everything seemed to be pretty clear, pretty forward, referenced some of the material in the Comprehensive Plan. So, I don't have any additional changes. I wouldn't advise any.

MR. PARTINGTON: Okay.

MR. PICK: I concur. I don't see any changes.

MR. PARTINGTON: Okay.

MR. TREMBLAY: This is not as to content as much as it is to form, and this is in the discussion part; but, on Pages 6 and 7, there's a lot of stuff taken right out of PUD's advisory opinion; and I'm wondering. This is the Planning Board's advisory opinion, and referencing the PUD's opinion that they came up with is fine. It's just I'm not sure if we need all these paragraphs in here; and, like I said, it doesn't take away from our opinion. It's just I'm not sure if we need the two pages of paragraphs that quote directly from the PUD's advisory opinion.
This is our advisory opinion, not theirs; and it's one thing to incorporate a paragraph that summarizes their points, but not necessarily just reiterating all of or half of their opinion.

MR. KRAVITZ: I would say that I kind of fall back to the job here. I'm supposed to reach out to all the other departments, right, and I did that back a long time ago now. I want to say maybe May. I'm trying to remember. But all I had at that time was an agreement that was executed I believe between Mike Kirkwood and the Invenergy. So, now that we have something different than that, we felt like it should be in there. I mean I understand what you're saying, but I think it only adds to I think the main theme here, which is water. Water quantity is a big deal. So, it is two pages, but it's --

MR. TREMBLAY: All right, like I said, it wasn't --

MR. KRAVITZ: I don't know, I think it would do more harm to take it out and less harm to leave it in.

MR. TREMBLAY: Okay. That was the only thing. I was wondering about why we needed to regurgitate what Pascoag Utility District had already --

MR. KRAVITZ: PUD is an intervenor now, right;
so, they'll probably say the same thing, but it shows that the Planning Board, at least, was looking at this from all angles; and you were aware of this at the time you made your decision, too, so --

MR. TREMBLAY: That was the only comment I had.

Thank you.

MR. FELICE: Thank you. My only comments are that I think it was well thought out and put together. It touches upon the critical areas that we're seriously concerned with, that being water quantity and quality, as previously mentioned by Tom. It notes specific situations with regard to the Comp. Plan and how this does or does not fit and also addresses the conditions of the noise. I'm comfortable with all of the information compiled here in this advisory. Thank you.

MR. FERREIRA: I'm comfortable with the statement also. It addresses the point that it's dealing with this particular parcel of land and the surrounding area, what the surrounding area represents. As far as the PUD's information, the Planning Board would under normal process accept and entertain information from all sources throughout the Town, our experts, as well as the base support for the Town. So, I have no problem with that; and,
actually, I think we did a good job.

MR. LUPIS: Mr. Chairman, I think it's fine the way it's written. It reflects everything we have gone through, cites everything that's supposed to be said, so I have no recommendations for any changes at all.

MR. PARTINGTON: Very good. Thank you very much. Okay, so, it appears that we don't have any specific changes for you. So, we would be looking to vote on this in its entirety. So, should we do the noise first and then the opinion?

MR. McELROY: Yes.

MR. PARTINGTON: All right. So, gentlemen, we're going to do a vote, if you will, on the noise; and the first will be on the low octave band. If that is successful, then I would go to the entire recommendation, too; and this is a recommendation to the Zoning Board that they grant the motion -- that the Zoning Board will grant the special use permit that they're looking for for the Noise Ordinance.

MR. DESJARDINS: Mr. Chairman, how would we do that, if we don't have an assurance about the 43 dBA that we're talking about? That's the one --

MR. PARTINGTON: Our expert has testified. Mr. Hessler has testified that he is comfortable with
the fact that, with proper lagging, that it is possible to meet that standard. So, with the assumption that that can be met, and it's his opinion that it can be met, then it is possible to grant or to make an advisory -- I'm sorry, to make the recommendation to the Zoning Board that, as long as it can be met, that they could issue. Whether you're comfortable with that or not is a separate issue, and that's what you're voting for. Whether you're comfortable with that or not is a separate issue, and that's what your vote would be. So, if you feel you have enough information to make that recommendation, then you vote yes. If you're not comfortable, then you would vote no. Hold on, hold on.

MR. KRAVITZ: Mr. Chairman, just to focus here, if you look at Page 18 in your opinion, the second to last paragraph, that's where Mr. McElroy had explained that it's the Planning Board that would issue the advisory to both the EFSB and the Zoning Board regarding the requested octave band noise waiver/special use permit. Then it carries over onto Page 19. The way that this is written up here, the second paragraph, "Accordingly, it is our opinion that the CREC, the Clear River Energy Center facility, will be able to comply with the Noise
Ordinance, provided the Zoning Board of Review grants Invenergy a waiver/special use permit exempting the CREC from the octave band limits of the Noise Ordinance." So that's how this reads now. So, that's what you're essentially advising the Zoning Board as to whether or not you wish to ask them to grant the waiver of the octave band. That's going on Mr. Hessler's email review that states that it's Spectra that is creating impacts right now and that he feels that Invenergy's facility will not add to that. That's what he's maintained throughout. So, that's what you're voting on.

MR. DESJARDINS: Well, have we ever suggested waivers but with contingencies attached to them?

MR. PARTINGTON: I believe we have.

MR. DESJARDINS: And that's where my direction is going. Like, I don't mind granting a waiver, as long as we have some sort of recourse if that's not met.

MR. PARTINGTON: Correct.

MR. DESJARDINS: In the event that can't be in place, then that's a different story.

MR. PARTINGTON: Correct, but the Town's ordinance is what you're basing it on. So, if they can't meet that ordinance, then there should be
penalties in place. So, when I -- in my original opinion, I said the Council should probably come up with something that would be more punitive than is currently in place, in case they don't meet it. Also, if they -- I believe there is a discussion in the emails about Invenergy putting up a bond also to ensure that they meet that. So, Mr. Hessler has stated that is possible for them to meet it, if it's constructed correctly. So, we could mitigate what we're doing by having them set a bond amount or ask the Zoning Board to. Can zoning set up a bond?

MR. KRAVITZ: I wanted to mention -- I was just talking to Michael about that. They, correct me if I'm wrong, rejected our request to set a bond. So, you should know that.

MR. PARTINGTON: Okay. We can still ask for it.

MR. KRAVITZ: Right.

MR. DESJARDINS: So, would that be part of a motion, if we --

MR. PARTINGTON: Yeah, it absolutely could be. I mean Invenergy so far has rejected that. I don't see where it is unreasonable for us to come up with a dollar figure on what it would be to mitigate noise, based on the lagging and what's already in our opinion here.
WOMAN FROM THE AUDIENCE: But that won't stop it, though.

MR. McELROY: Mr. Chairman, could I weigh in?

MR. PARTINGTON: Yes, sure.

MR. McELROY: On Page 20, if you look at the second bullet, these are the -- the bullets are recommendations to the EFSB, and these recommendations are actually requested conditions of the EFSB approval. This means that, if the EFSB agrees to these conditions, any violation of these conditions would bring down the power of the EFSB on the project. So, if you read the second bullet, what we're recommending to the EFSB is the following condition regarding the noise: "There should be continuous monitoring and reporting of noise levels by Invenergy, and compliance with 43 dBA at all times should be an explicit condition of the EFSB license, so that all violations are penalized with fines, a cease and desist order, and possible revocation of the operating license." And we go on to say, "The Town has also requested that Invenergy post a performance bond or other financial assurance for the benefit of the Town to ensure that this condition is satisfied and that Town residents who are adversely affected by noise violations are compensated."
Now, in response to our request regarding that bond, they have said no, they don't believe they can do that. On the other hand, what that means is that the EFSB could go along with this and say continuous monitoring, continuous reporting, continuous requirements of the 43 dBA, penalize with fines which the EFSB has the authority to do, penalize with a cease and desist order, which they have the authority to do, and even possible revocation of the operating license. They can go on to say as a condition, if they choose to do so, that we won't give you a license unless you post some financial assurances. So, that's all possible. We've asked for all of that in this, and I think it covers it.

MR. DESJARDINS: Okay, thank you.

MR. PICK: What I'd like to say about this is that, as a Board, we voted unanimously, you know, against, you know, an advisory opinion against the plans. To now discuss any type of waivers, whatever it may be, --

MR. PARTINGTON: If I could correct you, sir, we voted unanimously that we didn't believe it was in compliance with the Comprehensive Plan.

MR. PICK: Correct. Thank you, Mr. Chairman. So, to discuss a waiver which is, in fact, part of
the Comprehensive Plan I think shows a lot of inconsistency on our part. (Applause.) And I just don't think that, you know, if we're granting a waiver, then we are essentially -- or if we're recommending the waiver, I should say, right, I think we are going against what we voted on.

MR. PARTINGTON: Okay.

MR. FERREIRA: I'm still looking for the point where it has anything to do with the low octave band in our regulations.

MR. KRAVITZ: Can you repeat that?

MR. FERREIRA: I'm still looking for the point in our regulations where it calls for any information at all on the low octave band. I've seen the 43 decibel, but I haven't found anything on low octave noise limits -- or low octave noise levels, sorry.

MR. PARTINGTON: Okay. So, the applicant is saying that they're going to meet 43 dBA.

MR. FERREIRA: Correct.

MR. PARTINGTON: What they're -- what we've been told is that that low band is not something that is possible.

MR. FERREIRA: Do we have anything in our regulations, building, Town regs., zoning, anything that addresses low octave noise levels? Because I
can't find it.

MR. PARTINGTON: I don't believe we do.

MR. FERREIRA: Then how can we request a waiver from something we don't have in our regulations?

MR. McELROY: No, it's in the ordinance.

MR. FERREIRA: I haven't found it.

MR. McELROY: The ordinance is a little difficult to read because the ordinance has two levels mixed into one chart, and the chart has an overall dBA limit. That limit they've committed to me. They've committed under oath that they're going to meet that. The problem is the ordinance has a whole lot of these frequency limits that tie into octave bands, and those are the ones that even our own expert has told us are virtually impossible to meet. So, Invenergy has said you've created a bar that is too high for anybody to jump over. We don't think it's reasonable for you to require us, and our own expert agrees with that; but it is in the ordinance, and there is also a provision in the ordinance that specifically allows for the Zoning Board to waive it. So, that's -- we're making two recommendations. One is to the EFSB, and there are two questions to the EFSB: Does it comply with the Comp. Plan? And you have all unanimously voted it
does not. That's what this opinion says.

The second question that we haven't voted on yet is: Is Invenergy able to meet the Noise Ordinance? And what I'm proposing is that the decision would say they are able to meet the Noise Ordinance, if the Zoning Board, not us, if the Zoning Board grants them a waiver from the octave band limits, which basically cannot be met according to our expert.

MR. FERREIRA: Okay. From all the information we've been -- they have been gathering from our experts and everyone else available, the low octave band has no -- has zero negative effect.

MR. McELROY: No, it has no negative effect at all. The low frequency that is out there in the area, that's being generated right now by Spectra; and any low frequency that this new facility would generate would be significantly less than Spectra; therefore, there would be no increase in the low frequency noise at all.

MR. FERREIRA: Okay. So, just as we are making a recommendation to the EFSB on what we would like to see happen, if the EFSB should decide to trash this and just go on what they want to do, do we still need to come up with something that says a waiver of some kind from somewhere?
MR. McELROY: No, the EFSB is the final licensing body. So, whatever they say goes. We don't have the opportunity to jump back in.

MR. FERREIRA: So, essentially, our waiver means nothing.

MR. McELROY: Essentially, our advisory opinion means nothing. It's simply an advisory opinion. The EFSB can take it, they take it in part, or they can reject it.

MR. FERREIRA: Thank you.

MR. LUPIS: All right. So, what I've read and what I'm hearing is we have asked them for a performance bond in this, and they've said no.

MR. McELROY: Correct.

MR. LUPIS: Tom, has there ever been a situation before when someone before us has refused to post a performance bond?

MR. PARTINGTON: I can't remember any.

MR. KRAVITZ: No.

MR. LUPIS: All right, so that raises a big red flag on my end. (Applause.) If they're so confident that they can meet it, if they're so confident there's not going to be an issue or they can meet it, why wouldn't they just post the bond? So, I'm sorry, I have no faith in it where they're refusing to do
that. Thank you.

MR. FELICE: Mr. Chairman, I just want to take a moment to echo those comments. We've had scenarios where construction projects, we've asked them to put up performance bonds, guaranty bonds for such and such a phase of the project; and almost always -- always, I will correct myself, always they have met those bonds. We've held those moneys in escrow until such work and guaranties have been met. If we would have had a developer come up and we asked for a performance bond or this type of money in escrow and they say we refuse to do that, we would not allow the project to go through. So, I think we have to give some serious thought to that portion of it. Thank you.

MR. PICK: I just wanted to make sure I understood what Mr. Hessler's comments were, and that was that he had -- I believe he had said that he had never seen a power plant be able to maintain that dBA level, either at start-up or at shutdown, especially without all the lagging and maybe the additional building requirements surrounding the air ducts, so --

MR. PARTINGTON: However, he said he believed it could be designed that way.
MR. PICK: Correct, correct.

VOICE FROM THE FLOOR: Could be, could be.

MR. PARTINGTON: I'm saying what the gentleman said.

MR. PICK: Thank you, Mr. Chairman. So, if we were voting based on that, I would say that would be fine; but we've had no indication from Invenergy that they have plans on, you know, constructing or -- (Applause.) I said Invenergy never had given any indication that they were adding those to the construction plans.

MR. McELROY: They have been. They've done a data response under oath that they would, in fact, do that.

MR. PICK: Okay, thank you.

MR. PARTINGTON: One of the weaknesses of this entire thing is that we haven't seen plans. So, that obviously folds into it. So, we are running a bit blind in most of this process.

So, gentlemen, we'll take the Noise Ordinance piece first, okay. So, I'm going to make a motion that we make a positive recommendation to the --

VOICE FROM THE FLOOR: No.

MR. PARTINGTON: Ladies and gentlemen, I'm going to make it; we're going to vote it, okay. So, it has
to be done one way or the other. I'm going to make it positive. If they vote it down, they vote it down. So, just stick with us, please.

I'm going to make a positive recommendation based on our advisory opinion that's here, okay, that we make a positive recommendation to the Zoning Board that they grant the special use permit for the noise for the plant. Okay.

MR. TREMBLAY: To include --

MR. PARTINGTON: To include -- yes, go ahead.

MR. TREMBLAY: Can I amend that?

MR. PARTINGTON: Absolutely. Tell me the amendment, sir.

MR. TREMBLAY: To include the waiver for the low level range of noises --

MR. PARTINGTON: Yes.

MR. TREMBLAY: -- that we've been told are impossible to meet in any case.

MR. PARTINGTON: Okay. And with the conditions that were set forth in our advisory opinion here, which is continuous monitoring and reporting of noise levels by Invenergy, and compliance with the 43 dBA at all times should be an explicit condition of the license. All violations are penalized with fines, a cease and desist order, possible revocation of the
operating license; also, that it should contain a performance bond or other financial assurance to the Town; and compensation for Town residents who are adversely affected by the noises.

MR. FERREIRA: I'll second it.

MR. PARTINGTON: Thank you. I have a motion and a second. Any discussion? (Pause and no response.) So, the motion was for a positive recommendation, okay. I'm going to go by voice vote, please, okay. So, all those in favor, say, "Aye".

MR. TREMBLAY: Aye.

MR. FELICE: Aye.

MR. FERREIRA: Aye.

MR. PARTINGTON: Aye. All those --

THE CLERK: I didn't hear everybody.

MR. PARTINGTON: There are four so far. All those against, say, "Nay".

MR. PICK: Nay.

MR. LUPIS: Nay.

MR. DESJARDINS: Nay.

MR. PARTINGTON: One, two, three. Mr. Tremblay Mr. Felice, Mr. Ferreira and myself, okay; and the "Nays" are Chris, Mike and Dov. So, motion carries 4-3.

MR. McELROY: Mr. Chairman, could we take a
little recess. Mr. Chairman, I think maybe you should take a short recess because I need to look something up.

MR. PARTINGTON: Okay, so we'll recess for five minutes.

(Recess.)

MR. McELROY: Thank you, Mr. Chairman.

MR. PARTINGTON: All right, gentlemen, we're back in. Yes, go ahead.

MR. McELROY: Under Rhode Island GL 45-23-63(d), it says, "All votes of the Planning Board shall be made part of the permanent record and show the members present and their votes. A decision by the Planning Board to approve any land development or subdivision application requires a vote for approval by a majority of the current Planning Board membership." And I believe the phrase, "current Planning Board membership" means exactly that. It means you currently have all the spots filled. Even though you have one recusal and one absent, I believe the current membership is, therefore, nine; and, therefore, it would require five affirmative votes to pass. This does not prevent you from reconsidering and re-voting. On the other hand, if the vote stays as it is, it would end up not passing.
MR. TREMBLAY: Can you re-read that.

MR. McELROY: Yes, I'd be glad to. "A decision by the Planning Board to approve any land development or subdivision application requires a vote for approval by a majority of the current Planning Board membership."

MR. TREMBLAY: But we're not voting on or approving any kind of subdivision development. This is a vote, a general vote by the Board; but it's not for that degree of an application. Is there a difference there?

MR. McELROY: That is certainly an argument. If you want my thinking on that, my thinking is that, while you could make that argument and we might be able to squeak by under that, I think it's more likely that, if this ended up in court, the way a court would read it is they would say they have filed an application with us under the land development or subdivision regulations, and that application is before us; and, although we cannot approve or deny the application because the EFSB has that final approval or denial authority, we are making an advisory to the EFSB; and, therefore, because the EFSB rules specifically say that you need to follow your usual procedures, and that's in the statute, I
believe that that means we need to follow the statute.

(Applause.)

MR. PARTINGTON: If that's the case, sir, then the motion would have failed.

MR. McELROY: That's correct.

MR. PARTINGTON: Okay.

MR. FERREIRA: So, what do we do?

MR. PARTINGTON: Unless we do something, --

MR. FERREIRA: I like all the data that was put into it.

MR. PARTINGTON: Hold on.

MR. FERREIRA: I was just going to say that I like all the data that was put into -- all the wording that was put into the motion. I think we need to go back over the motion and take a second vote, just to see if all the information was picked up on by everyone.

MR. McELROY: Mr. Chairman, the way that would have to work in Roberts Rules is that one of the prevailing voters would have to make a motion to reconsider. That would be the first thing. There would have to be a motion to reconsider, there would have to be a second, and then that would be open for discussion. If the motion to reconsider is granted,
then you could have a re-vote on your motion.

MR. PICK: Would it be adviseable just to wait until we have, you know, our full complement of the Board to do it, even if we did it not in a public --

MR. PARTINGTON: No, you'd --

MR. McELROY: Well, you have to do it in public.

MR. PICK: But we could do it in a private session.

MR. McELROY: Well, you can do it in discussion.

MR. PICK: I don't mean private.

MR. McELROY: It has to be public. We are under some time pressure. The Zoning Board needs our recommendation before the 30th, I believe, and today is the 22nd.

MR. PICK: That gives us eight full days.

MR. McELROY: I understand. So, I guess that's a possibility.

MR. FERREIRA: We need a motion to reopen?

MR. PARTINGTON: Well, we can do that, or we can come up with something more neutral, which is what I'm trying to think of at the moment. Why don't we do the motion to reopen, and then we can re-vote or discuss it or withdraw it or what have you.

MR. FERREIRA: Make a motion to reopen.

MR. McELROY: Reconsider.
MR. PARTINGTON: Motion to reconsider I have. Do I have a second?

MR. PICK: Second.

MR. PARTINGTON: I have a second. All those in favor?

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

MR. PARTINGTON: Any opposed?

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

MR. PARTINGTON: Okay. So, we can now speak on the motion. There are -- if I can start, I think one of the issues might be that no one is comfortable with the waiver of the low octave band. I could be wrong.

MR. TREMBLAY: May I?

MR. PARTINGTON: The mike.

MR. TREMBLAY: I'm not sure if it's the waiver of the low octave bands that's the issue.

MR. PARTINGTON: Okay.

MR. TREMBLAY: The language in the motion calls for a positive recommendation to the Zoning Board concerning the Noise Ordinance in general; and I don't know perhaps if we were to divide the motion into two parts so that the first part of the motion
deals strictly with the low octave band part, which I think we all understand isn't possible for anybody.

    MR. PARTINGTON: Agreed.

    MR. TREMBLAY: And then maybe if we jump that rope, then we can move to the more specific motion about whether or not we provide a positive or negative recommendation to the Zoning Board concerning the Noise Ordinance.

    MR. McELROY: I think that's an excellent recommendation, but I think it's flipped. The recommendation you're making to the Zoning Board is whether or not they should grant a special use permit on the low octave band only. The recommendation you're making to the EFSB is whether or not they would comply with the overall Noise Ordinance.

    MR. TREMBLAY: So, as far as the Zoning Board is concerned, our only business with them right now is whether or not they should grant a waiver for the low octave noise bands.

    MR. McELROY: Actually, you have two pieces of business with them, but the only one that's in dispute or under discussion is the low octave band waiver. You've also given them a negative advisory as to whether or not they should grant the overall special use permit for the project. That's already
done.

MR. TREMBLAY: That's already in the larger --

MR. McELROY: That's already done. You have
told the EFSB and the Zoning Board that you believe
this does not comply with the Comprehensive Plan;
and, therefore, they should not grant that.

MR. PARTINGTON: Under the assumption that we
vote this opinion in tonight.

MR. McELROY: Yes.

MR. PARTINGTON: Okay.

MR. TREMBLAY: We haven't done the final.

MR. PARTINGTON: Correct.

MR. McELROY: No. So, then you have these two
little pieces that are -- it's Number 2 in the
directives you have been given by the EFSB.
Will they be able to comply with the Noise Ordinance?
And what I had suggested is they will be able to
comply, if the Zoning Board and, ultimately, the EFSB
gives them an octave band waiver, okay. That would
be the EFSB. But, before we get to the EFSB, you
have got to make a recommendation to the Zoning Board
as to whether or not they should grant the octave
band waiver.

MR. TREMBLAY: So, that's the discussion. The
first motion should be do we provide a positive or
negative recommendation to the Zoning Board in
regards to the waiver from the low octave noise
requirement of our Noise Ordinance? And I would like
to make a motion, unless anybody else has anything to
say in that regard before I jump the gun.

MR. PARTINGTON: I think you're on the right
track.

MR. TREMBLAY: I'd like to make a motion that we
make a positive recommendation to the Zoning Board
that the waiver for the low octave noise levels in
our Noise Ordinance can be waived.

MR. PARTINGTON: So, it's a positive?

MR. TREMBLAY: Yes.

MR. PARTINGTON: So, I have a motion for a
positive recommendation that the Zoning Board should
grant the waiver of the low octave.

MR. TREMBLAY: Assuming it gets to them,
correct, but that's the --

MR. FERREIRA: He did say with --

MR. PARTINGTON: Hold on. I have a motion. Do
I have a second?

MR. FERREIRA: Second.

MR. PARTINGTON: Discussion?

MR. FERREIRA: With the additional information
you had in the first motion as regards to the
performance bond and securing --

MR. TREMBLAY: That's not -- that's a separate issue.

MR. PARTINGTON: No, on this one they can never comply because it --

MR. FERREIRA: No one can comply on that.

MR. PARTINGTON: Correct. So, this is simply the low octave band, whether or not we should do that, okay. So, we're back to --

MR. FERREIRA: Back to just only the low octave band.

MR. PARTINGTON: Correct. So, we're voting on just the low octave band, whether the Zoning Board should grant the low octave band waiver. Everybody with that? Okay, any more discussion?

MR. PICK: I've said it before, I just want to remind everyone. We have given an opinion. We've given an advisory opinion that the building of the plant is not in compliance with the Town's ordinance. Now we are discussing a waiver on such an ordinance.

MR. McELROY: May I?

MR. PARTINGTON: Yes.

MR. McELROY: What you've already -- the work you've already done, quite successfully, is you have given the opinion that the proposed facility would
not comply with the Comprehensive Plan. The Noise Ordinance is a separate ordinance in your Town Ordinances. That's why the EFSB asked you two questions. They said, Number 1: Does it comply with the Comprehensive Plan? And, Number 2: Does it comply with your Town Noise Ordinance? So, they really are separate questions, totally separate.

MR. PARTINGTON: Now, the reason that this is set up this way -- so, we have a motion on the floor that we make a positive recommendation to the Zoning Board, okay. A "yes" vote means that we say it's okay, you should grant the waiver. A "no" vote means that they should not grant the waiver, okay. So, in your vote, -- so, your point is that -- will then be manifested in your vote of no, if that's the way you wanted to go. Is everyone clear on how they wish to vote? Okay, everybody all set? Any other discussion? Okay, once again, it will be by voice vote, but we need to say whose who. So, all those in favor, say, "Aye".

MR. TREMBLAY: Aye.

MR. FERREIRA: Aye.

MR. FELICE: Aye.

MR. DESJARDINS: Aye.

MR. PARTINGTON: Aye. One, two, three, four,
five. So, it's the Chair, Bruce, Leo, Mark and Chris. All right. All those not in favor say, "Nay".

    MR. LUPIS: Nay.
    MR. PICK: Nay.
    MR. PARTINGTON: Two "Nay" votes, Mike and Dov, okay. So, the second piece of this is whether -- is on the compliance with the Noise Ordinance itself.

    MR. McELROY: And what I suggested, Mr. Chairman, -- what I suggested, Mr. Chairman, the crux of that is the language that I have in the draft.


    MR. McELROY: Well, those are the conditions. It's on Page 19, if you want to look at it. It's right above the "Requested EFSB Conditions of Approval;" and what I've suggested is the following language: "Accordingly, it is our opinion that the CREC facility will be able to comply with our Noise Ordinance, provided the Zoning Board of Review grants Invenergy a waiver/special use permit exempting the CREC from the octave band limits of the ordinance."

    MR. PARTINGTON: Okay, so, do we need --
    MR. McELROY: You could make that to a motion.
    MR. PARTINGTON: Do we need to vote on that, or
can it go as part of the advisory opinion?

MR. TREMBLAY: Because it's already part of this advisory opinion.

MR. McELROY: It is; but, because the compliance or lack of compliance with the Comprehensive Plan was already unanimously voted on, I was able to draft this. There was, however, a delay on the vote on the noise at the last meeting. So, this is suggested language, but it hasn't been voted on yet.

MR. FERREIRA: Shouldn't that be the low octave?

We just --

MR. McELROY: No, we already voted on the low octave. Now we're saying, if the Zoning Board gives them the low octave waiver, then we believe they can comply with the Noise Ordinance; and we're, of course, asking for all the conditions that the Chairman read.

MR. PARTINGTON: I agree with you. I don't know that we have to vote it, but --

MR. TREMBLAY: Right.

MR. PARTINGTON: Okay.

MR. TREMBLAY: It's part of our original motion.

MR. PARTINGTON: It was part of my original motion, yes. Okay, so --

MR. McELROY: That motion failed.
MR. PARTINGTON: Correct, but we reconsidered it.

MR. McELROY: Okay. I think now you need to re-make it.

MR. PARTINGTON: Okay. So, I make a motion that it's our opinion that the facility would comply with the Noise Ordinance, if the special use permit is granted by our Zoning Board, with the conditions that there should be continuous monitoring and reporting of noise levels by Invenergy. Compliance with 43 dBA at all times should be explicit as a condition of the license. All violations are penalized with fines, a cease and desist order and possible revocation of the operating license, and that Invenergy post performance bond or other financial assurance for the benefit of the Town to ensure that this condition is satisfied; and the Town residents who are adversely affected by the noise violation are compensated. So, that's my motion from the Chair.

MR. TREMBLAY: I'll second it.

MR. PARTINGTON: I have a second. Thank you very much. Any discussion?

MR. TREMBLAY: Mr. Chairman, I'm just thinking that, despite our opposition to the entire concept through the Comprehensive Plan, which is what we've
attached, that all of the evidence that we were
provided points to the fact that they, yes, they can
meet the Noise Ordinance, of course, depending on
whether or not they get the waiver from the Zoning
Board for the low octave, but yes, they can. So, we
haven't heard anything that says that they can't.

MR. PARTINGTON: I agree.

MR. TREMBLAY: Anybody else?

MR. FERREIRA: And inclusive in this vote will
also be the addition of the performance bond and
securing the fact that CREC will, in fact, meet all
the requirements, should the EFSB approve this site.
That's what the recommendation is about, and I think
they meet it.

MR. DESJARDINS: The problem is we've already
had responses that they won't accept the performance
bond, and that's where my issue is. We've already
had the response that they won't. So, how can we
vote for something --

MR. PARTINGTON: Okay. Even though they said
they won't, it's what we believe should be a
condition. So, even though they said no, it doesn't
mean that we can't require it anyway. Also, it's not
us that's requiring it. It's the EFSB. So, the
EFSB, who is the all powerful wizard in this case,
should be able to require the company to put up this performance bond. It is our recommendation that they should be doing these things as a condition of this particular proposal. So, even though they said no, it doesn't mean that EFSB should not require it anyway; and that's our opinion, and that's why we've written it here.

MR. PICK: Mr. Chairman, are we able to include in the conditions the construction components that would enable them to potentially get down to the 43 dBA?

MR. PARTINGTON: I am always open to a friendly amendment, sir. So, if you would like to craft one, then we can consider that.

MR. PICK: Then I would amend it that, as a condition of this, that Invenergy be required to follow all the recommendations that Mr. Hessler has laid out. I don't want to get any more specific in terms of going back; but, in terms of the lagging, enclosing the air ducts. I'm particularly worried about start-up and shutdown for meeting that dBA, not so much operational running; but, from what we've heard, there -- again, I believe Mr. Hessler stated that there would not -- he has never seen a power plant meet that type of dBA.
MR. PARTINGTON: But he believed that it could be designed that way was his testimony.

MR. PICK: So -- right, so, if it was -- So, I just want to amend that, if it was designed the correct way, based on his recommendations.

MR. PARTINGTON: So, the amendment is that the designs are consistent with Mr. Hessler's recommendations and specifications.

MR. PICK: Yes.

MR. TREMBLAY: I will second it.

MR. PARTINGTON: I have a second on that. Any further discussion?

MR. LUPIS: Yeah, I'll take this one. All right, so, in this case, where we're saying one of the conditions would be that they have to post a performance bond, how would the dollar amount be evaluated? What would the amount be? Say, if it does not pass for some reason, something goes wrong, all right, and they have to build a building over a building, it could be millions of dollars. So, how would we have any idea of what that dollar should be?

MR. PARTINGTON: The good thing about what Dov has said is that it would be on the recommendations of Mr. Hessler, who has seen these things built before. So, whatever his recommendations would be
could simply be -- well, not simply, but could be
costed out to make sure that they comply with what he
believes is the design specification. It would be a
lot like a subdivision where we could determine the
length of road and current cost and things and set a
performance bond based on that construction estimate.
So, it could be done that way.

MR. LUPIS: Thank you.

MR. PARTINGTON: Okay, any other discussion?

Yes, sir?

MR. FELICE: All right, Mr. Chairman, I just
wanted to make a couple of comments here. With
regards to what you just brought up about a
performance bond, and we talked about language about
cease and desist. If the EF -- if the Siting Board
were to accept these terms, correct me if I'm wrong,
could we not then go back and put details to that?
For example, cease and desist would not mean they
would shut down the first time they violated. There
has to be some language to determine: Is it a one,
two, three times? Could you speak to that for a
moment.

MR. McELROY: I'd be happy to. There are really
two levels of enforcement. The first level is the
EFSB, and they're given very broad authority in the
statute. So, they can decide what is reasonable under the circumstances. If they hit 44 dBA for five minutes one day, then the EFSB will do one thing in all likelihood. If they hit 55 dBA for a week, the EFSB will do something completely different, much more severe; and they need to be given that discretion, and it's given to them in the statute. However, there is a second level of enforcement that is not taken away from us by the EFSB, and that's in our own Zoning Ordinance; and, in our own Zoning Ordinance, it specifically gives us the three things that we have been looking at. It gives us the right to issue a cease and desist order; it gives us a right to fine them for the first fine -- first violation, I'm sorry, I'd have to look it up -- I can look it up, if you'd like, but it's a few hundred dollars. The second violation after that are more money; and then the third thing is each violation is a separate violation requiring them to pay a fine. So, that's in our Zoning Ordinance. We can continue to do that. We can continue to monitor, and we would continue to enforce, including with a cease and desist order. So, two levels of enforcement, EFSB and then us.

MR. FELICE: All right, okay. I appreciate you
clearing that up. So, I just want to put this out there so everyone is on the same page here. We've heard from our experts that testified that it could be done, and "could" is not definitely could be done. So, this is why we have to have a lot of teeth into the contingencies of what we just spoke about. It's one thing to take a valve in a manufacturing facility in a laboratory and test it under the right conditions and have it work perfectly, and then to bring something out into the field under real conditions is a separate situation. So, I guess my point is that this is a very, very critical item right here to talk about and to make sure that it has the legality and the validity that we need because, once this starts up and it doesn't seem to do what it's doing, it's just a matter of paying the fine, paying the fine, which is basically -- (Applause.). So, I just want to be clear that we have a legitimate resource that this just doesn't go on forever, and we built a plant and here we are. We'll just pay as we go. Thank you.

MR. FERREIRA: I'd like to add that it wasn't our experts that said they could meet the 43 dBA. It was Invenergy's that said they could meet the 43 dBA.
MR. McELROY: Actually, Mr. Hessler did say that he believed they could meet the 43 dBA.

MR. FERREIRA: But Invenergy backed them up by saying they would. At that same meeting, Invenergy came back with its representatives saying that they would meet the 43 dBA.

MR. McELROY: Yes.

MR. PARTINGTON: Okay, go ahead, Dov.

MR. PICK: Just one more thing. During some of that noise discussion, I do recall some of Invenergy's experts indicating that the noise would be met just simply due to the guaranty by the manufacturer and the contractor. I mean is there anything built into that? Obviously, at that point the contractors are out of the picture; and, you know, if they're talking about -- you're talking about $200 fines, there's no incentive, obviously, to be at those type of levels.

MR. McELROY: Yeah, I can address that. The dollar fine, there is no limit with the EFSB like there is in our Zoning Ordinance. So, they can impose whatever is appropriate, given the violation; and that does include a shutdown. They can absolutely shut the facility down, if it doesn't meet it. So, I -- well, I think that's again two levels
of enforcement, and the EFSB's goes all the way up to shutdown and significant fines. But with regard to the EPC guaranty, the EPC guaranty is a big deal. It's millions of dollars if the contractor doesn't meet the requirement. So, the contractor is obligated by the contract to fix it so that it does meet it.

MR. PICK: And I think what my colleague was saying is that there are no parameters in terms of where that level is, right. In other words, is it -- you know, is there a way of reproducing that, or is the statute just, as you say, very rugged and allows for almost arbitrary type of penalties?

MR. McELROY: Yeah, on our end it has the limits that we discussed, but it also has the authority in the Town to issue a cease and desist order. On the EFSB end, they again can issue a cease and desist order; and then, as I explained, they have the authority to issue any fine they feel is appropriate under the facts and circumstances of the violation. So, if the violation is severe, they could issue a million dollar fine. If the violation is not severe, they could issue a thousand dollar fine.

MR. PICK: But there's no structure. There is no parameters. In other words, what constitutes a
severe violation? What constitutes a mild violation?

MR. McELROY: That would be determined after a hearing by the EFSB.

MR. PICK: Okay.

MR. KRAVITZ: I want to mention one thing, Dov, that you started this when you referenced the noise. On Page 19 in our opinion, we reference that this opinion is based primarily on testimony and recommendations in the Town's expert consultant letters/reports. And then you go to Page 21 there in the bullet, second to the bottom, of course, we list a bunch of those reports, but we go back to Page 20 on noise. We don't actually list anything with Hessler's name on it. Do we want to do that? Is that what Dov was getting to? I'm just saying I just noticed now that Hessler's reports are not referenced explicitly. Is that okay? Does it imply that they're all going to be attached to this? I guess that's a question for you, too, Mike.

MR. PARTINGTON: Personal opinion is I think it's critical.

MR. KRAVITZ: Well, yeah, the reason I ask is because, of course, Hessler clearly did say that lagging and insulation of the building is really the only way to do it. So, if it's not explicitly listed
that way, should we do that? And that's picking up, I think, on your very first point, Dov, right?

MR. PARTINGTON: And I agree.

MR. McELROY: That's easy enough to do.

MR. PARTINGTON: Okay. Any other discussion?

(Pause and no response.) Okay, all set? All right, so motion on the floor was, with conditions, to send a recommendation to the Zoning Board, okay? No, not the low octave. We already took care of the low octave. Everybody good? So "yes" vote is positive. A "no" vote would be negative. Okay, all those in favor?

MR. PARTINGTON: Aye.

MR. FERREIRA: Aye.

MR. FELICE: Aye.

MR. TREMBLAY: Aye.

MR. PARTINGTON: One, two, three, four. All those not in favor?

MR. PICK: Nay.

MR. LUPIS: Nay.

MR. DESJARDINS: Nay.

MR. PARTINGTON: Okay. So, Chair is in favor; Bruce is in favor; Leo is in favor; Marc is in favor. Chris is not; Dov is not; Mike is not. So motion, according to your reading, Mr. McElroy, fails. So,
okay.

MR. FERREIRA: We'll leave it up to the Zoning Board to decide.

MR. PARTINGTON: I guess we'll leave it up to the Zoning Board to decide, because that's the way it's going to go, so --

MR. TREMBLAY: It's just a recommendation.

MR. PARTINGTON: Right. Okay, so, motion fails.

MAN FROM THE FLOOR: How about you vote it the other way.

MR. PARTINGTON: Okay, let's do it that way then. Okay, ladies and gentlemen, I make a motion to send an unfavorable opinion to the Zoning Board. All those -- I'm sorry, do I get a second?

MR. PICK: Second.

MR. PARTINGTON: All those in favor?

MR. PICK: Nay.

MR. LUPIS: Nay.

MR. DESJARDINS: Nay.

MR. PARTINGTON: Dov, Chris, Mike. All those opposed? Aye.

MR. FERREIRA: Aye.

MR. FELICE: Aye.

MR. TREMBLAY: Aye.

MR. PARTINGTON: Marc, Leo, Bruce, Chair.
Motion fails. We don't have it.

MR. TREMBLAY: You're talking a null set.

MR. PARTINGTON: Okay, just so it's there.

Okay, everybody good? Okay, last piece of business, hopefully, this evening is certification -- not certification, but acceptance of the advisory opinion, acceptance of the advisory opinion with the addition of the data from Mr. Hessler.

MR. TREMBLAY: And the removal of the reference that we just -- and the removal of the reference that we just discussed about this middle paragraph on Page 19. "Accordingly, it's our opinion . . .", that whole paragraph needs to be struck. Are we -- because we just voted against it. Isn't that right, Mr. McElroy?

MR. McELROY: I believe you're correct. I believe I would have to take that one sentence out.

MR. TREMBLAY: Correct.

MR. McELROY: And I believe it would have to be substituted with something along the lines of, "The Planning Board was unable to reach a consensus as to whether or not the facility would comply with our Noise Ordinance."

MR. TREMBLAY: Correct.

MR. PARTINGTON: And where --
MR. TREMBLAY: Page 19 just above, "Requested EFSB Conditions."

MR. PARTINGTON: Okay. So, the conditions can remain on Page 20.

MR. TREMBLAY: Yes.

MR. PARTINGTON: Yeah. So, on Page 19 it says, "Accordingly, it is our opinion that the CREC facility will be able to . . ." meet -- I'm sorry, ", . . . be able to comply with our Noise Ordinance, provided the Zoning Board of Review grants Invenergy a waiver/special use permit exempting CREC from the octave band limits of the ordinance." So, our revision would be that we were unable to come to an opinion that they would meet -- that the CREC facility would be able to comply with our Noise Ordinance, provided the Zoning Board of Review grants Invenergy a special use permit exempting CREC -- okay, so, we're still okay. All right, so, it's our opinion -- or, we were unable to come to an opinion. Are we all set with that?

MR. McELROY: Yes.

MR. PARTINGTON: Okay, yes. The microphone.

MR. FELICE: I just want to address this to Mr. McElroy just to get an opinion. On Page 7, I'll wait for you. "Finally, the draft advisory concluded
that 'A long-term pumping test of Well Number 3 is
recommended to evaluate . . .''; can we change that
to recommended to --

MR. TREMBLAY: That's not our words.

MR. McELROY: Could you help me? You're on
Page 7, which paragraph?

MR. TREMBLAY: Top.

MR. McELROY: Top paragraph?

MR. FELICE: Where it says, "recommended to
evaluate."

MR. McELROY: That's in a quote. I can't change
what's in a quote.

MR. FELICE: Okay, all right. Secondly, on
Page 23.

MR. McELROY: Okay.

MR. FELICE: Second paragraph, it says, "This
one facility would consume a tremendous of the Town's
groundwater. . .".

MR. McELROY: Thank you, that's a typo. I'll
fix that.

MR. FELICE: Amount.

MR. McELROY: Amount. I'll fix that.

MR. FELICE: All right, that's all. Thank you.

MR. PARTINGTON: Okay. So, do I have a motion
on the floor?
THE CLERK: Yes, you do.

MR. PARTINGTON: Okay. I have a motion and a second. We're under discussion, and the motion was to accept the advisory opinion with the changes on Page 19 and the addition of Mr. Hessler's opinions in the conditions on Page --

MR. TREMBLAY: 20, second bullet.

MR. PARTINGTON: Okay. So, I have a motion and a second. Any discussion?

MR. McELROY: Mr. Chairman, could I ask, based on the vote that's already been taken with regard to the octave band waiver, I would need to add that language to the Zoning Board advisory, and I will do that.


MR. McELROY: The Zoning Board advisory begins on Page 22.

MR. PARTINGTON: Oh, I'm sorry.

MR. McELROY: Because we hadn't voted on it, I didn't put anything in the draft opinion regarding your advisory to the Zoning Board on the octave band waiver; so, I will add that pursuant to the vote.

MR. PARTINGTON: Okay. So, three conditions. Anyone else?
MR. FERREIRA: The motion I made --

MR. PARTINGTON: Hold on.

MR. FERREIRA: The motion I made concerning that the EFSB draft or accept the Burrillville Planning Board as part of the review process, will that be attached to this?

MR. McELROY: It's already included, Bullet Number 5. It's on Page 22. It's at the top, the third bullet, and it currently reads, "Pursuant to EFSB Rule 1.14(b), we respectfully request that the EFSB consider delegating to our Board the authority, during the construction period, the period of plant start-up and the reporting period to follow 'to visit the plant and plant site to determine if construction, construction practices, . . . '"

MR. FERREIRA: Thank you.

MR. PARTINGTON: Go ahead.

MR. PICK: Just to confirm, we're going to include what Tom recommended, and that is all of Mr. Hessler's construction recommendations.

MR. PARTINGTON: Yes. So, it is acceptance of the advisory opinion as written with the changes on
Page 19 to reflect the vote that we just took, all of Mr. Hessler's recommendations and the change to the zoning opinion pages based on our vote. Everyone all set?

MR. FERREIRA: Almost. I don't see anything in here referring to the Blackstone Valley Corridor.

MR. McELROY: I did not put anything in there about that.

MR. FERREIRA: Okay, I think that should be, because the Blackstone Valley Corridor was established and funded by the Federal Government, and I believe the requirement of the Federal Government in not applying financial compensation to anything, that would work against something that they have already financed.

MR. TREMBLAY: There is no Federal financing for this project.

MR. FERREIRA: Not that we know of.

MR. TREMBLAY: You're talking about an Environmental Impact Statement I think is what he's referring to. So, I think there is language in there about asking the EFSB to include -- to subject the project to, as well as other projects in the region, to this Environmental Impact Statement.

MR. McELROY: That's correct.
MR. TREMBLAY: Is that correct?

MR. FERREIRA: No. What I was referring to was that the Blackstone Valley Corridor was established using Federal funds; and, should Invenergy apply for Federal funds to supplement the cost of construction or operation, I don't believe the Federal funds would be available because Federal funds have already assisted the Blackstone Valley Corridor in getting itself established.

MR. KRAVITZ: The tough part about that is that we don't have anything specific in the Comp. Plan that talks about it. I mean there is a national park now. If this thing undergoes an EIS, I'm falling back on what Marc says. I would assume that they would have to get the review through Section 1080 and maybe pull that in like a historic review that a facility like this is now being located within a national -- the national -- the watershed of a national park. So, I would assume it's going to get review there. It's not spoken to that specifically in our Comp. Plan.

MR. FERREIRA: So, if that's not in our Comp. Plan, we really can't address it then. Thank you.

MR. PARTINGTON: Okay, anyone else? So, motion before you, everyone clear on the motion? Okay, the
motion has been made and seconded. All those in favor?
(Whereupon all the Members of the Board responded by saying, "Aye.")

MR. PARTINGTON: Any opposed?
(Whereupon none of the Members of the Board responded.)

MR. PARTINGTON: Okay. Motion carries unanimously to accept the advisory opinion with revisions. Okay.

MR. PARTINGTON: Tom, any more business this evening?

MR. KRAVITZ: No.

MR. PARTINGTON: We're all set. Okay, Bruce.

MR. FERREIRA: Motion to adjourn.

MR. TREMBLAY: Second.

MR. PARTINGTON: All those in favor?
(Whereupon all the Members of the Board responded by saying, "Aye.")

MR. PARTINGTON: Any opposed?
(Whereupon none of the Members of the Board responded.)

MR. PARTINGTON: Thank you very much.

(Meeting Adjourned at 7:20 p.m.)

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CERTIFICATION

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: MAJOR SUBDIVISION/LAND DEVELOPMENT ON INVENERGY THERMAL DEVELOPMENT, LLC's Clear River Energy Center, heard before the Burrillville Planning Board at the Burrillville High School Auditorium, 425 East Avenue, Harrisville, Rhode Island, on August 22, 2016 at 6:00 p.m.

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

(Signed Electronically)