

## 1 STATE OF NEW HAMPSHIRE

## 2 SITE EVALUATION COMMITTEE

3  
 4 **June 27, 2011** - 9:09 a.m.  
 Public Utilities Commission  
 5 21 South Fruit Street  
 Suite 10  
 6 Concord, New Hampshire

DAY 2

MORNING SESSION ONLY

7  
 8 **RE: SEC Docket No. 2011-02**  
**Petition for Jurisdiction**  
**Over Renewable Energy Facility**  
 9 **Proposed by Antrim Wind**  
**Energy, LLC.**  
 10 **(Public Hearing & Deliberations)**

11 **PRESENT:**

## SITE EVALUATION SUBCOMMITTEE:

12 Thomas B. Getz, Chairman  
 (Vice Chairman of SEC)  
 13 (Presiding as Chairman)

Public Utilities Commission

14 Glenn Normandeau, Exec. Dir.  
 Clifton Below, Cmsr.  
 15 Amy Ignatius, Cmsr.  
 Elizabeth Muzzey, Dir.  
 16 Harry Stewart, Dir.  
 Robert Scott, Dir.  
 17 George Bald, Cmsr.  
 Joanne Morin, Dir.  
 18 Michael Harrington

N.H. Fish & Game Department  
 Public Utilities Commission  
 Public Utilities Commission  
 N.H. Div. of Historical Res.  
 Water Division - DES  
 Air Resources Division - DES  
 Dept. of Resources & Econ. Dev.  
 Office of Energy & Planning  
 Public Utilities Commission

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20 Counsel for the Committee:

Michael Iacopino, Esq.

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 23 **COURT REPORTER: STEVEN E. PATNAUDE, LCR No. 52**  
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**ALSO PRESENT:**

**Reptg. the Applicant:**  
*(Antrim Wind Energy)*

Susan S. Geiger, Esq.  
*(Orr & Reno)*

**Counsel for the Public:**

Evan J. Mulholland, Esq.  
*Assistant Attorney General*  
N.H. Dept. of Justice

**Reptg. Town of Antrim  
Board of Selectmen:**

Justin C. Richardson, Esq.  
*(Upton & Hatfield)*

**Reptg. Antrim Planning Board:**

Silas Little, Esq.  
*(Fernald Taft Falby & Little)*

**Reptg. Harris Center for  
Conservation Education:**

Stephen Froling, Esq.

**Reptg. Audubon Society of NH:**

Frances Von Mertens

**Reptg. the Block Group:**

Richard Block

**Reptg. the Allen Group:**

Mary Allen

Gordon Webber, *pro se*

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                                  MARTHA E. PINELLO**

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
AWE-8	Final Minutes of the 05-19-11 Antrim Planning Board Meeting <i>(replacing the "Draft" minutes previously marked as AWE-8)</i>	19
RB-1	Monadnock Ledger Transcript article entitled "Eolian plan puts Antrim residents at odds" (04-07-11)	premarked
PB-1	Testimony of Martha E. Pinello, including attachments (05-20-11)	premarked
PB-2	Testimony of Charles A. Levesque, including attachments (05-20-11)	premarked
PB-3	Table of Planning Board Motions and Votes March 17 to May 19, 2011	68
PB-4	Document entitled "Ad Hoc Committee Plan of Work"	70
AWE-10	Excerpt from the New Hampshire Energy Plan, from the Governor's Office of Energy and Community Services, November 2002, including Pages 4-1, 4-2, & 4-3 (4 pages total)	82
BOS-10	Copy of an email from Galen Stearns to Justin Richardson (06-01-11)	premarked
BOS-13	Printout of Title LXIV Planning and Zoning Chapter 674 (674:16)	premarked
BOS 16	Letter from Cmsr. Thomas Burack to The Honorable David Cote, Chairman, House Judiciary Committee (04-06-10)	premarked

1                                   **P R O C E E D I N G**

2                                   CHAIRMAN GETZ: Okay. Good morning,  
3 everyone. We'll reopen the hearing in Site Evaluation  
4 Committee Docket 2011-02, concerning the Petition for  
5 Jurisdiction over the Antrim Wind Energy Facility.

6                                   Before we begin, let's introduce the  
7 members of the Committee. If we could start with  
8 Mr. Stewart.

9                                   DIR. STEWART: Harry Stewart, Director  
10 of Water Division, Department of Environmental Services.

11                                  DIR. MORIN: Joanne Morin, Director of  
12 the Office of Energy & Planning.

13                                  DIR. NORMANDEAU: Glenn Normandeau,  
14 Director of Fish & Game.

15                                  DIR. SCOTT: Bob Scott, Director of the  
16 Air Resources Division, with the Department of  
17 Environmental Services.

18                                  CMSR. BELOW: Clifton Below, Public  
19 Utilities Commission.

20                                  CHAIRMAN GETZ: Tom Getz, Chair of the  
21 PUC and chairing this Committee.

22                                  CMSR. IGNATIUS: Amy Ignatius, from  
23 Public Utilities Commission.

24                                  DIR. MUZZEY: Elizabeth Muzzey, Director

1 of the Division of Historical Resources and the Department  
2 of Cultural Resources.

3 CMSR. BALD: George Bald, Commissioner  
4 of the Department of Resources & Economic Development.

5 MR. HARRINGTON: Mike Harrington, New  
6 Hampshire PUC.

7 CHAIRMAN GETZ: And, I'll note for the  
8 record that we have a quorum appearing today. So, then,  
9 let's now take appearances from the parties.

10 MS. GEIGER: Yes. Good morning, Mr.  
11 Chairman, members of the Committee. I'm Susan Geiger,  
12 from the law firm of Orr & Reno. I represent Antrim Wind  
13 Energy, LLC. And, with me this morning at counsel table  
14 are Mr. Jack Kenworthy of Antrim Wind and Mr. Drew  
15 Kenworthy of Antrim Wind.

16 CHAIRMAN GETZ: Good morning.

17 MR. J. KENWORTHY: Good morning.

18 CHAIRMAN GETZ: Well, --

19 MR. BLOCK: Richard Block, and I  
20 represent the abutters and other intervenors.

21 CHAIRMAN GETZ: Good morning.

22 MR. LITTLE: Please the Commission,  
23 Silas Little, I'm here for the Antrim Planning Board.  
24 And, with me at the table are Ms. Pinello and

1 Mr. Levesque, members of the Antrim Planning Board.

2 CHAIRMAN GETZ: Good morning.

3 MR. FROLING: Good morning. I'm Stephen  
4 Froling. I'm here for the Harris Center for Conservation  
5 Education.

6 CHAIRMAN GETZ: Good morning.

7 MS. VON MERTENS: Frances Von Mertens,  
8 New Hampshire Audubon. Good morning.

9 CHAIRMAN GETZ: Good morning.

10 MR. RICHARDSON: I'm Justin Richardson,  
11 of Upton & Hatfield, here with the Town of Antrim Board of  
12 Selectmen. I have Mike Genest, a Selectman; John  
13 Robertson, also a Selectman; and Town Administrator Galen  
14 Stearns here with me at the table.

15 CHAIRMAN GETZ: Good morning.

16 MS. ALLEN: Good morning. Mary Allen,  
17 for the non-abutting intervenors.

18 CHAIRMAN GETZ: Good morning.

19 MR. WEBBER: Gordon Webber, petitioner  
20 and intervenor.

21 CHAIRMAN GETZ: Good morning. And, my  
22 understanding from Committee Counsel is that Mr. Roth is  
23 unavailable until one clock this afternoon. I'm not sure,  
24 has that been communicated to the rest of the parties?

1 (Atty. Geiger nodding head in the  
2 affirmative.)

3 CHAIRMAN GETZ: And, so, my intention  
4 today is where we left off at the last hearing, Mr. Webber  
5 had been sworn in, Mr. Iacopino had conducted direct  
6 examination, and we're prepared to turn to cross  
7 examination.

8 Since Mr. Roth is not here, what I would  
9 propose to do is that we would go through cross of  
10 Mr. Webber, I'm hoping, I don't expect that that's going  
11 to take all morning. That we would then turn to the  
12 Pinello/Levesque panel, and then we would turn to the  
13 Block/Cleland/Longgood/Law panel, and give Mr. Roth an  
14 opportunity, when he arrives, to ask questions of those  
15 parties. And, it may be Mr. Mulholland and not Mr. Roth  
16 that would be here to conduct the cross-examination. Is  
17 there any objection to that process?

18 MS. GEIGER: Mr. Chairman, I don't  
19 object to accommodating Attorney Roth or Attorney  
20 Mulholland. But I would note that, I believe, based on  
21 what they have said earlier in this proceeding, that I  
22 would characterize their questions as "friendly cross" for  
23 the remaining witnesses, perhaps with the exception of  
24 Mr. Webber. So, typically, friendly cross goes first, and



1 then those that are more adverse goes after.

2 So, I would respectfully ask for the  
3 opportunity to ask follow-up cross-examination questions  
4 of the witnesses after Mr. Mulholland.

5 CHAIRMAN GETZ: And, I think that's  
6 fair. We did observe that earlier in the -- dealing with  
7 the procedural issues at the beginning of the hearing last  
8 time on the 1st. So, we'll let the Petitioners, to the  
9 extent that they seek to follow up after Mr. Roth or  
10 Mr. Mulholland, they will have that opportunity.

11 MR. IACOPINO: Mr. Chairman? I would  
12 also point out that, in the communications with me,  
13 Mr. Roth indicated that Counsel for the Public will likely  
14 have no more than 30 minutes of cross-examination as well.  
15 So that, assuming they get here at 1:00 as promised, their  
16 examination should be over by 1:30.

17 CHAIRMAN GETZ: All right. Thank you.  
18 Is there anything we need to address before we do the  
19 cross of Mr. Webber?

20 (No verbal response)

21 CHAIRMAN GETZ: Hearing nothing, then,  
22 Mr. Webber, if you could come forward. And, I'll remind  
23 you that you are still under oath.

24 MR. WEBBER: Yes.

[WITNESS: Webber]

1 (Whereupon **Gordon Webber** was recalled to  
2 the stand, having been previously  
3 sworn.)

4 CHAIRMAN GETZ: Yes, we have copies of  
5 the testimony.

6 WITNESS WEBBER: You do? Okay.

7 CHAIRMAN GETZ: Let me just, in case we  
8 didn't, I thought we did this, but, in any event, we'll  
9 mark for identification as "Webber Exhibit Number 1" the  
10 prefiled testimony that was filed on May 6th.

11 MR. IACOPINO: It's already been marked.  
12 So, it's here.

13 MR. RICHARDSON: We're going to proceed  
14 with friendly cross?

15 CHAIRMAN GETZ: Yes.

16 MR. RICHARDSON: And, I'll go first, if  
17 there's no objection.

18 CHAIRMAN GETZ: Please proceed, Mr.  
19 Richardson.

20 MR. RICHARDSON: Good morning, Mr.  
21 Webber.

22 WITNESS WEBBER: Good morning.

23 **GORDON WEBBER, Previously Sworn**

24 **CROSS-EXAMINATION**

[WITNESS: Webber]

1 BY MR. RICHARDSON:

2 Q. In your testimony, you have that in front of you?

3 A. I do.

4 Q. On the second page you state that "Our local planning  
5 board does not have the expertise nor is it tasked with  
6 evaluating the impacts well beyond the borders of  
7 Antrim." Is that still your testimony today?

8 A. It is.

9 Q. Okay. And, what's the basis for that?

10 A. Well, on the second issue, local planning boards are  
11 tasked with local land issues. And, I believe that  
12 this project goes well beyond the local boundaries.  
13 And, typically, you know, local planning boards are  
14 dealing with subdivisions, lot line adjustments, things  
15 of that nature. So, a project of this magnitude, I  
16 think, is well outside the scope of the expertise of  
17 local Planning Board members who, you know, typically  
18 are laypeople who are volunteering to sit on a board  
19 for, you know, a few years.

20 Q. What is -- you also indicated on Page 2 that "4 of 7  
21 members [of the Planning Board] have taken an  
22 adversarial position." What did you mean by that?

23 A. There are four members that were -- well, originally,  
24 prior to the March 2011 Town Meeting, we had put

[WITNESS: Webber]

1 together an ordinance to go for the town vote. That  
2 was posted improperly in the newspaper, and that was  
3 actually brought up by Mr. Levesque. It was -- it was  
4 a technicality, it was not posted properly. So, that  
5 -- the vote on that ordinance did not go to the ballot.  
6 Two of the members on that original board were opposed  
7 to the ordinance. After the election, the two new  
8 members, Ms. Pinello and Mr. Levesque, were opposed to  
9 seeing that ordinance. They worked hard to stop the  
10 Special Town Election so that the Town could vote on  
11 that.

12 Since then, they have taken an  
13 adversarial role with the Board of Selectmen. They  
14 petitioned the SEC not to take jurisdiction. The  
15 Selectboard informed them that they were --

16 Q. Let me interrupt you for a second, --

17 A. Okay.

18 Q. -- because I think you've gone beyond what I'm asking  
19 you. So, when you say they're "adversarial", do you  
20 mean by that that they're opposed to the Project in  
21 your view?

22 A. I believe so.

23 Q. Okay. And, when we were here on June 1st, you heard  
24 Mr. Genest's testimony about what the general view in

[WITNESS: Webber]

1 the Town of Antrim was?

2 A. Yes.

3 Q. And, I want to show you a document, BOS Exhibit 8, that  
4 was premarked for identification.

5 A. Yep. I'm familiar with this.

6 Q. What is that?

7 A. This was a straw poll conducted at the March 8, 2011  
8 Town vote. It simply said "Are you in favor of the  
9 proposed wind towers in Antrim? Yes. No. Undecided."  
10 And, there was a 63.2 percent in favor.

11 Q. Okay. And, in your view, does that survey contain and  
12 reflect the view of Antrim residents?

13 A. I believe that that --

14 CHAIRMAN GETZ: Mr. Richardson, what's  
15 the relevance of this to his direct testimony?

16 MR. RICHARDSON: The relevance is  
17 whether he is concerned that the adversarial nature of the  
18 Planning Board would result in an ordinance that was too  
19 stringent, because four of the seven members are opposed  
20 to the Project in his view. And, the result of that would  
21 mean that, even if this were to go the local route, we'd  
22 end up with a project that couldn't be approvable, that  
23 would end up in the court system, and it would be an  
24 unfavorable review process.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS: Webber]

1 CHAIRMAN GETZ: It seems to me, if he's  
2 raising the issue of whether there's an adversarial  
3 relationship, what we would be concerned with is, "is this  
4 adversarial relationship going to contribute to an issue  
5 of bias in the decision-making?" But we can't be looking  
6 today and forecasting what the outcome may or may not be.  
7 And, it seems to me that's the path you're going down with  
8 this, and I think it's going a little far afield to bring  
9 in these surveys about who believes what, in terms of his  
10 testimony with respect to the level of adversarial  
11 relations, and whether that is or is not a professional  
12 difference of opinion or if it's something that  
13 contributes to bias, and the ability of these members to  
14 be -- to decide fairly an issue that may come before them.

15 MR. RICHARDSON: That's right. And,  
16 where I'm trying to get really isn't that far or that  
17 detailed. What I'm trying to get to is whether or not he  
18 believes that an ordinance would pass if it were too  
19 restrictive, because, if an ordinance doesn't pass, then  
20 we're back to square one.

21 CHAIRMAN GETZ: I think that's too  
22 speculative.

23 MR. LITTLE: Thank you.

24 CHAIRMAN GETZ: Let's move along.

[WITNESS: Webber]

1 MR. RICHARDSON: I have no other  
2 questions.

3 CHAIRMAN GETZ: Okay. Thank you.  
4 Ms. Geiger.

5 MS. GEIGER: Yes. Thank you, Mr.  
6 Chairman. Good morning, Mr. Webber.

7 WITNESS WEBBER: Good morning.

8 BY MS. GEIGER:

9 Q. Mr. Webber, you've served on both the Antrim Board of  
10 Selectmen and the Planning Board, is that correct?

11 A. I have.

12 Q. And, were you Chairman of the Selectboard in Antrim  
13 when they filed a petition in February of this year  
14 asking the Site Evaluation Committee to assert  
15 jurisdiction over the Antrim Wind Project?

16 A. Yes.

17 Q. And, when you filed the Selectmen's petition seeking  
18 SEC jurisdiction, did you intend that the SEC take  
19 jurisdiction over the Project immediately, rather than  
20 to wait for Antrim Wind to actually file an application  
21 before this Committee?

22 A. I did.

23 Q. Do you still believe, at this time, it is still in the  
24 Town's best interest for the SEC to take jurisdiction

[WITNESS: Webber]

1 over the Antrim Wind Project?

2 A. I very much do.

3 Q. Were you involved in or aware of the Town proceedings  
4 over the past two years with regard to the efforts to  
5 develop an ordinance that would have allowed wind  
6 energy projects to be a permitted use in Antrim, the  
7 Town of Antrim's Rural Conservation District?

8 A. Yes. I sat on the Planning Board while the Board  
9 worked on developing that ordinance.

10 Q. Was that ordinance ever developed?

11 A. Yes.

12 Q. Was it ever enacted?

13 A. No.

14 Q. Why not?

15 A. The posting in the newspaper was improper, and so it  
16 was disallowed.

17 Q. Okay. Mr. Webber, you stated on Page 2 of your  
18 prefiled testimony that the "[Planning] Board doesn't  
19 have the time" to review this project. What leads you  
20 to believe that?

21 A. Well, they meet every -- typically, every other  
22 Thursday, for two or three hours. I believe that a  
23 project of this magnitude is going to take a lot more  
24 time than four to six hours a month. In theory, if



[WITNESS: Webber]

1           they work, if they gave up their jobs and came to town  
2           every day and worked full days, it's possible. But  
3           that's not a very realistic scenario.

4   Q.   Now, on the last page of your testimony you state that  
5           "The Town of Antrim and Antrim Wind Energy, LLC need a  
6           fair and objective board to evaluate and oversee this  
7           project and [that] the Antrim Planning", I think the  
8           word "Board" is missing there, "cannot and will not do  
9           so." Why do you believe that the Antrim Planning Board  
10          cannot and will not objectively evaluate and oversee  
11          the Antrim Wind Project?

12                   MR. LITTLE: Objective. I think --  
13           objection. She's doing the same thing that prior counsel  
14           was trying to inquire about. I mean, I don't see that  
15           this witness is competent. And, the real issue is, he's  
16           trying to forecast what the ordinance might look like if  
17           the Town is allowed to develop one.

18                   CHAIRMAN GETZ: No, I'm going to allow  
19           this question. I think this is legitimate follow-up on  
20           the issue of what's the basis for the opinion he's formed  
21           about the adversarial nature and whether there is or is  
22           not bias. So, I'll permit this, but let's see how far  
23           this goes.

24   **BY THE WITNESS:**

[WITNESS: Webber]

1 A. I don't think any of our recent planning boards would  
2 be able to realistic oversee this project. I don't  
3 believe the current one can fairly and objectively  
4 oversee this project. And, that gets back to the  
5 adversarial nature of the Board. They are adversarial  
6 with the Board of Selectmen, which is the governing  
7 body of the Town. However, they have taken a different  
8 stance on that.

9 They're also adversarial amongst  
10 themselves. The Chairman of the Planning Board, Andy  
11 Robblee, has a number of times reprimanded them for I  
12 believe he called "their sleezy backdoor maneuverings".

13 BY MS. GEIGER:

14 Q. Well, following up on that, on the last page of your  
15 prefiled testimony, you indicate that "Little business  
16 is conducted at Planning Board meetings [and] instead,  
17 petty bickering and power struggles ensue." And, you  
18 also refer to Planning Board meeting minutes to support  
19 your position. I'd like to actually show you what I  
20 believe has been marked as "Antrim Wind Exhibit 8", but  
21 I believe that those may have been draft minutes. And,  
22 I'm going to ask Mr. Webber if these minutes of the May  
23 19th, 2011 Planning Board Meeting are minutes that he  
24 refers to in his testimony?

[WITNESS: Webber]

1 MR. IACOPINO: For the record, Mr.  
2 Chairman, AWE Exhibit 8 that was previously marked was, in  
3 fact, it has a -- well, it has a watermark across it  
4 indicating "D-A-T", I assume it's supposed to be  
5 "D-R-A-F-T".

6 MS. GEIGER: Well, and, Mr. Chairman, if  
7 I can explain. Members of the Planning Board, at the last  
8 time we were all together on June 1st, had indicated that  
9 the meeting -- that the meeting minutes would be placed in  
10 final form. And, I believe it was their preference that  
11 the final minutes be placed in the record. So, what I  
12 would respectfully ask is that the final minutes be  
13 replaced for the draft minutes, so that we have a cleaner  
14 record on what the minutes actually show. And, I have  
15 copies for everyone.

16 CHAIRMAN GETZ: Is there any objection  
17 to us substituting the final minutes for the draft  
18 minutes?

19 MR. LITTLE: No objection here.

20 CHAIRMAN GETZ: Seeing no objection,  
21 Exhibit 8 will be replaced by the final minutes.

22 (Whereupon the previously marked **AWE-8**  
23 was replaced with Final Minutes from the  
24 05-19-11 Antrim Planning Board Meeting.)

[WITNESS: Webber]

1 MS. GEIGER: And, I have extra copies  
2 here, if anyone else needs them.

3 BY MS. GEIGER:

4 Q. And, again, Mr. Webber, to refresh your memory of the  
5 question I asked you, is whether you felt that these  
6 minutes supported the position in your prefiled  
7 testimony?

8 A. They do.

9 Q. Okay. Now, are you aware of the Ad Hoc Committee  
10 formed by the Planning Board for purposes of  
11 recommending zoning or planning amendments that could  
12 be used for review of the Antrim Wind proposal?

13 A. I am.

14 Q. And, are you familiar with the status of the  
15 Committee's work thus far?

16 A. Yes. They had a meeting Monday night for the public  
17 that I attended.

18 Q. And, what transpired at that meeting?

19 A. Not very much. They -- they had nothing to show to the  
20 public. As far as I could see, they have not drafted  
21 an ordinance or any regulations. They were asking for  
22 input from the public, what they would like to see.  
23 But, at the stage that they're at, I would have  
24 expected them to present some draft ordinance and

[WITNESS: Webber]

1 regulation. And, so, at this point in time, for the  
2 amount of time they have spent, I was very disappointed  
3 that they had nothing.

4 Q. Now, do you know if there have been any resignations  
5 from that Ad Hoc Committee?

6 A. Yes. There have been two.

7 Q. Do you know who those folks are?

8 A. Andy Robblee and Ben Pratt.

9 Q. Do you know why those two gentlemen resigned from the  
10 Ad Hoc Committee?

11 MR. LITTLE: Objection. Hearsay.

12 CHAIRMAN GETZ: Well, I'm going to  
13 permit this. I think this may already be on the record  
14 from the first hearing. So, let's --

15 **BY THE WITNESS:**

16 A. The only reason I know that Ben Pratt resigned was the  
17 letter, his resignation letter. I have not spoken to  
18 him regarding this. Mr. Robblee I've spoken to twice  
19 about it, and he said that he "could not work with that  
20 Board."

21 **BY MS. GEIGER:**

22 Q. Now, Mr. Webber, are you familiar with the process for  
23 bringing zoning amendments to the Town for a vote?

24 A. Yes.

[WITNESS: Webber]

1 Q. Could you briefly describe that process.

2 A. The Planning Board would draft an ordinance, bring it  
3 to the Selectboard, who would then basically present it  
4 to the Town Clerk. There needs to be five Tuesdays  
5 passed before it goes to the vote. Prior to that,  
6 there needs to be some postings in the newspaper for  
7 public hearings. So, it's a couple months minimum  
8 process.

9 Q. And, based on your knowledge of that process, how long  
10 do you think it would take, in this particular  
11 instance, for a zoning ordinance or regulations to be  
12 enacted, if at all?

13 A. If the Planning Board --

14 CHAIRMAN GETZ: How is this relevant to  
15 his testimony?

16 MS. GEIGER: Well, Mr. Chairman, I think  
17 that he's indicated that he doesn't have, you know, faith  
18 that the Planning Board would be able to conduct a review  
19 of this project. And, so, I was just pursuing that line  
20 with him about the Planning Board's activities and forming  
21 the Ad Hoc Committee, and what they're trying to do thus  
22 far.

23 CHAIRMAN GETZ: Well, I think, this is,  
24 you know, one step of a consequence we'll permit. But I

[WITNESS: Webber]

1 think that we've been down this path pretty much already.

2 MS. GEIGER: Okay.

3 CHAIRMAN GETZ: So, we'll let him answer  
4 this question, but see how much --

5 WITNESS WEBBER: Could you repeat the  
6 question.

7 BY MS. GEIGER:

8 Q. Well, I was going to ask you for, based on your  
9 understanding and your background as a member of the  
10 Planning Board and the Selectboard, and your knowledge  
11 of the process for enacting zoning amendments, zoning  
12 ordinance amendments, how long does that process take  
13 and how long do you think it would take in this case,  
14 where you know that the Ad Hoc Committee, as you just  
15 testified, hasn't developed anything in writing yet?

16 A. If everything was ready to go, I think it would take  
17 approximately two months. However, the Planning Board  
18 has had no site plan reviews or subdivisions or lot  
19 line adjustments. And, since March of 2011, when they  
20 were elected, they -- here it is, almost the end of  
21 June, and they have nothing. So, that's, when I say  
22 "little business is conducted", this -- little business  
23 is conducted. They argue about the SEC taking  
24 jurisdiction, and that's it.

[WITNESS: Webber]

1 Q. Mr. Webber, do you believe it is in the best interest  
2 of the people of the Town of Antrim to wait for the Ad  
3 Hoc Committee process to play out, instead of having  
4 the Site Evaluation Committee assert jurisdiction over  
5 the Antrim Wind Project now?

6 A. No. I do not.

7 MS. GEIGER: Thank you. I don't have  
8 any further questions.

9 CHAIRMAN GETZ: Thank you. Mr. Froling?

10 MR. FROLING: No questions.

11 CHAIRMAN GETZ: Ms. Von Mertens?

12 MS. VON MERTENS: No questions.

13 CHAIRMAN GETZ: Mr. Little?

14 MR. LITTLE: Yes, I have a couple. Good  
15 morning, Mr. Webber.

16 WITNESS WEBBER: Good morning.

17 BY MR. LITTLE:

18 Q. You referred to a proposed ordinance. In fact, all  
19 that was proposed was the insertion of "a wind energy  
20 facility as being a permitted use in the Rural  
21 District." There was no other accompanying text  
22 proposed as a zoning ordinance amendment, was there?

23 A. There was an ordinance and there was no regulation  
24 developed at that point.



[WITNESS: Webber]

1 Q. So, there was just a mention of a particular type of  
2 use as being a permitted use, but no actual ordinance.  
3 It was just an insertion of a couple words within the  
4 section of the ordinance allowing that as a permitted  
5 use?

6 A. That would be an ordinance.

7 Q. Well, it's certainly different in the appearance and  
8 context, your amendment, than the present Antrim zoning  
9 ordinance, is it not?

10 A. Well, if you don't like the way the ordinance is  
11 written, that could be one thing. But it was an  
12 ordinance.

13 Q. It had no performance criteria. Didn't specify lot  
14 size, didn't specify anything about the characteristics  
15 that are particularly associated with this type of use,  
16 did it?

17 A. It would have said that "a industrial wind facility  
18 would be an allowed use in the Rural Conservation  
19 District."

20 Q. Right. No performance criteria?

21 A. No.

22 Q. All right. Now, in fact, you were against the Planning  
23 Board -- or, the Antrim zoning ordinance even -- or,  
24 the Antrim Land Use Control Boards even considering an

[WITNESS: Webber]

1 industrial wind use, even before this ordinance was  
2 posted to go before the voters, were you not?

3 A. Could you rephrase that or --

4 Q. You were against --

5 A. -- repeat it.

6 Q. You were against the Antrim citizens voting on an  
7 ordinance with respect to industrial wind use before  
8 that ordinance was even posted for consideration?

9 A. Where did you come up with that?

10 Q. Didn't you vote on January 24th, at the Board of  
11 Selectmen's meeting, to prepare a petition to the SEC  
12 asking the SEC to take jurisdiction?

13 A. Yes.

14 Q. And, that was before the posting error that you  
15 referred to occurred?

16 A. Sure.

17 Q. So, you had already taken, you and other members of the  
18 Board, had already taken a position against the Town of  
19 Antrim having any say in this issue?

20 A. No. The Town can draft an ordinance and present it to  
21 the SEC, who could have taken jurisdiction. The SEC  
22 could have then looked at the Town's ordinance.

23 Q. That isn't what your petition said. Is it? You just  
24 asked the SEC to take jurisdiction?

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[WITNESS: Webber]

1 A. Correct.

2 MR. LITTLE: Thank you. Nothing  
3 further.

4 CHAIRMAN GETZ: Mr. Block.

5 MR. BLOCK: Yes. Good morning, Gordon.

6 WITNESS WEBBER: Good morning.

7 BY MR. BLOCK:

8 Q. Page 1 of your testimony --

9 A. Yes.

10 Q. -- says you "worked closely with Antrim Wind  
11 Energy...for the [last] two years."

12 A. Yes.

13 Q. As part of that "working closely", did you meet  
14 privately in the Town Hall with Eolian and Town Manager  
15 Galen Stearns?

16 A. Yes.

17 Q. Do you recall how many times?

18 A. Two, three, perhaps.

19 Q. Okay. Can you tell us what was the purpose of those  
20 meetings?

21 A. Laying out some groundwork for -- we were discussing  
22 PILOT possibilities and -- actually, I think it was  
23 probably discussing PILOTs.

24 Q. Okay. Can you tell us which minutes of Selectboard

[WITNESS: Webber]

1 meetings publicly authorized you to meet privately with  
2 them?

3 A. If it was not a quorum, we don't need to.

4 Q. Okay. So, you're -- I'll leave that at that point.  
5 Your testimony said you'd been in office in Antrim  
6 since 2008?

7 A. Correct.

8 Q. Okay. You also state that the "Planning Board is  
9 dysfunctional"?

10 A. I believe so.

11 Q. Okay. You were referring at one point to the old  
12 Planning Board versus the new Planning Board.

13 A. Right.

14 Q. Do you feel that the old Planning Board, which was  
15 prior to March of this year, do you feel that was also  
16 dysfunctional?

17 A. No.

18 Q. Okay. Why do you feel that Planning Board would have  
19 been capable of conducting business and properly  
20 adjudicating on a wind turbine facility, as opposed to  
21 the current one?

22 A. I don't think I ever said that.

23 Q. Okay. Well, you state the present Planning Board is  
24 "not capable" of ruling on industrial wind issues, is

[WITNESS: Webber]

1 that correct?

2 A. Yes.

3 Q. Do you feel -- so, you don't feel that the old Planning  
4 Board had any expertise to rule on industrial wind  
5 issues either?

6 A. No. I think they were "functional", as opposed to  
7 "dysfunctional".

8 Q. Okay.

9 A. But I don't think either was well prepared to oversee a  
10 project of this magnitude.

11 Q. Okay. You were an Ex Officio Planning Board member at  
12 that time. Why then did you not state this when  
13 Eolian, claiming to be a public utility, submitted to  
14 the Planning Board a site plan review for their met  
15 tower as an accessory structure to an industrial wind  
16 facility?

17 A. I believe we're dealing with a met tower, right.

18 Q. But it was -- the met tower was specifically applied as  
19 "an accessory structure to an industrial wind  
20 facility". That was the only way that they could claim  
21 to be a public utility.

22 A. The met tower is separate from the wind facility  
23 project.

24 Q. Okay. Then, --

[WITNESS: Webber]

1 A. A lot of people have difficulty separating the two. I  
2 don't.

3 Q. But a met tower can never be a public utility in and of  
4 itself, isn't that correct?

5 CHAIRMAN GETZ: Is this relevant in what  
6 way, Mr. Block?

7 MR. BLOCK: I'll just drop that question  
8 then.

9 BY MR. BLOCK:

10 Q. Have you ever been offered any compensation in any form  
11 in the past or promised any compensation or potential  
12 work in the future by Eolian or any of its agents or  
13 partners?

14 A. No.

15 Q. Can you try to explain to us your motivations made you  
16 so driven to see this project happen in Antrim, and, as  
17 an elected Town official, you were not willing to  
18 listen to any of the people that live in the area where  
19 the wind facility would be located?

20 A. I disagree with your last part of that, where I  
21 "wouldn't listen to people". I do listen to people.  
22 When you don't agree with someone, it doesn't mean  
23 you're not listening to them. I'm driven, because I  
24 believe in renewable energy. And, the biggest

[WITNESS: Webber]

1 opposition is that people don't want to see them. I  
2 don't think that's a good argument.

3 Q. Okay. I disagree with your characterization of why  
4 that -- of what the biggest opposition is, as --

5 CHAIRMAN GETZ: Mr. Block, now is not  
6 the time to testify.

7 MR. BLOCK: All right.

8 CHAIRMAN GETZ: So, let's hear your  
9 questions. You'll have the opportunity to testify later.

10 MR. BLOCK: Okay.

11 BY MR. BLOCK:

12 Q. You state that "opposition is valid". Dissent is a  
13 democratic process?

14 A. Definitely.

15 Q. So, why do you consider opposition to your proposed  
16 zoning amendments by members of the Planning Board  
17 "adversarial"?

18 A. It's not that they're opposed to it. It's the way they  
19 go about and conduct their business.

20 Q. Okay. I gave the Board a -- I don't have a copy in  
21 front of me here, there was an Exhibit RB-3, which was  
22 just a reprint of an article in the Monadnock Ledger  
23 Transcript on April 7th. That was an article about the  
24 controversy in Antrim. And, it talked about the pros

[WITNESS: Webber]

1 and the cons. And, in that you are quoted as saying  
2 "I'm an environmentalist, but I'm also in the  
3 construction business. And, understand that, in order  
4 for me to keep my job, there needs to be construction."  
5 Do you recall that?

6 A. I do.

7 Q. Can you explain how, as a selectman, who actively  
8 pushed for the Town of Antrim to accept Antrim Wind's  
9 proposal, that this was not a conflict of interest?

10 A. I think it's in the best interest of the town, the  
11 state, and the country for construction to take place.

12 Q. Okay. Why do you seem to feel that this project would  
13 give you construction work, if you hadn't been promised  
14 any?

15 A. I'm a bricklayer, it's not going to give me any work.  
16 They don't make these wind facilities out of bricks.

17 Q. Okay. The article goes on to describe you as saying  
18 "While the wind turbines may affect the property values  
19 of the homes within a mile of the turbines, Eolian's  
20 presence in town would contribute to the tax base  
21 overall." Have you calculated the real net tax benefit  
22 to Antrim, given the small PILOT that has been offered,  
23 versus the drop in tax revenue due to a devaluation of  
24 a number properties in the turbine impact zone?



[WITNESS: Webber]

1 A. I don't think there would be a huge drop. But, you  
2 know, we've ran some numbers. But, without a --  
3 without the Project going forward, we don't know how  
4 much -- what the assessment is going to be. So, that's  
5 a hypothetical question that, you know, I really can't  
6 answer.

7 Q. Okay.

8 A. We need fixed numbers to run our projected numbers,  
9 which we don't have.

10 Q. But can you tell me what percentage of decrease in  
11 property value of those living near the wind facility  
12 you would consider acceptable and how many of your  
13 neighbors do you think it's all right to sacrifice for  
14 the good of the tax base?

15 MS. GEIGER: Mr. Chairman, I'm going to  
16 object to this question. I think that the witness just  
17 testified that he doesn't have that information. And, I  
18 don't see how it's relevant to our inquiry today.

19 MR. RICHARDSON: I'd also object, just  
20 because I don't feel that it's relevant. I considered  
21 bringing evidence in of what the benefits or impact was in  
22 other communities. But it just occurred to me that, you  
23 know, the issue is jurisdiction here, not whether or not  
24 the Project, on the merits, will be good for the Town.

[WITNESS: Webber]

1 That's really for --

2 CHAIRMAN GETZ: And, Mr. Block, I think  
3 we are getting far afield. You've introduced this to  
4 challenge his statements in his testimony, and now you're  
5 moving through the article to challenge statements that  
6 were in the -- this was apparently a newspaper article,  
7 but was not part of his testimony. So, I think it's  
8 beyond the scope of the cross and testimony.

9 MR. BLOCK: Okay. I will -- I have no  
10 further questions then. Thank you.

11 CHAIRMAN GETZ: Ms. Allen?

12 MS. ALLEN: Ms. Gard is going to take my  
13 place.

14 MS. GARD: Hi, Gordon.

15 WITNESS WEBBER: Good morning.

16 BY MS. GARD:

17 Q. I just have a few questions, and they have really been  
18 covered adequately by other people. But, you, in  
19 addition to being Chairman of the Board of Selectmen,  
20 you were Ex Officio on the Planning Board during the  
21 time that ill-fated zoning amendment proposal was  
22 developed, and then was improperly noticed, and then  
23 ultimately withdrawn. And, I just wanted to ask you a  
24 few questions about the thinking that went into the

[WITNESS: Webber]

1 creation of that proposal.

2 From where I sit, it's a proposal for a  
3 zoning amendment, not an ordinance in the most  
4 comprehensive sense, but it would become part of an  
5 ordinance.

6 MS. GEIGER: Mr. Chairman, I'm going to  
7 object. I don't think this is a question. I think it is  
8 --

9 MS. GARD: It is a question. I'm  
10 leading to that.

11 CHAIRMAN GETZ: Well, let's -- we've  
12 been through this before, and let me reiterate this again.  
13 One person speaks at a time, whether it's counsel,  
14 witnesses, or members of the Committee, let's let people  
15 finish their statements, and then I'll run the hearing and  
16 -- or at least try to, and then see if we can get this  
17 done in a timely manner.

18 So, if I could hear the objection, then  
19 we'll give you an opportunity to respond.

20 MS. GEIGER: Yes, Mr. Chairman. The  
21 objection is, I believe that Ms. Gard was testifying,  
22 basically. And, I think that, if she has a question, she  
23 should ask the question.

24 CHAIRMAN GETZ: Ms. Gard.

[WITNESS: Webber]

1 MS. GARD: I will just -- whatever I  
2 said, I will withdraw and begin anew.

3 CHAIRMAN GETZ: Okay.

4 MS. GARD: All right?

5 CHAIRMAN GETZ: But let me take you back  
6 to your original statement. You said "most of this  
7 information has been covered already" but you want -- so,  
8 if most of what you want to ask has already been covered,  
9 why do you need to go through it again?

10 MS. GARD: Because there are aspects  
11 that I think are telling, which haven't been covered.

12 CHAIRMAN GETZ: Okay. Well, let's see  
13 where these questions go then.

14 MS. GARD: Okay.

15 BY MS. GARD:

16 Q. In examining the thinking behind the proposal that was  
17 developed, can you confirm that there were certain  
18 themes involved? Can you confirm, for instance, that  
19 the approach was to keep it simple?

20 A. Yes. I believe we said that a number of times, was to  
21 keep it relatively simple.

22 Q. And, in fact, you kept it simple to the point where it  
23 was basically two paragraphs, a definition and an  
24 addition of a use to a specified zoning district or

[WITNESS: Webber]

1 districts?

2 A. Two ordinances; one was a definition and one was an  
3 amendment to an existing ordinance. Yes.

4 Q. Okay. And, the -- one of the two zoning districts to  
5 which this particular use was added was the Rural  
6 Conservation District. Is that correct?

7 A. Yes.

8 Q. And, the Rural Conservation District, is it correct,  
9 has been in effect with the same stated purpose since  
10 1989?

11 A. I don't believe it's changed.

12 Q. Okay. And, would you confirm that the stated purpose  
13 is that the "Rural Conservation District is intended to  
14 protect, conserve, and preserve the remote mountain  
15 portions of Antrim from excessive development  
16 pressures", and it goes on to talk about environmental  
17 --

18 A. Yes. Currently, that is the -- that's how it's read.

19 Q. Okay. Would you also confirm that Antrim -- that the  
20 Rural Conservation District covers more than about  
21 50 percent of the town?

22 A. It's close to half, yes. Yes.

23 Q. Yes. And, also, that Antrim, in some sense, is a town  
24 of hills? That there are perhaps 11 hills, you know,

[WITNESS: Webber]

1 more or less the same size as Tuttle, a little more, a  
2 little less, seven of which are in the Rural  
3 Conservation District?

4 A. I think that's correct.

5 Q. And, would you confirm that the proposal allowed  
6 industrial wind energy facility use above a rated  
7 capacity of 100 kilowatts anywhere in the Rural  
8 Conservation District?

9 A. That is the way it was read, yes.

10 Q. And, would you also confirm that there were no specific  
11 controls or guidelines in the body of the zoning  
12 amendment proposal that was developed?

13 A. Not in the zoning ordinance proposed. We had  
14 regulations drafted, that we used the agreements with  
15 Lempster and Iberdrola, and I believe Groton.

16 Q. So, what you're saying is, that you intended to put  
17 everything else, besides the definition and the as of  
18 right use, all the controls and guidelines would have  
19 been put in your development agreement, such as might  
20 be --

21 A. Yes.

22 Q. Now, given the way that the proposal was drafted, is it  
23 possible that there could be any number of other wind  
24 energy facilities above a rated capacity of

[WITNESS: Webber]

1 100 kilowatts in so large an area as 50 percent of the  
2 town, where you are -- where that 50 percent is  
3 composed, in great measure, of a number of rather large  
4 hills?

5 A. I think it's very unlikely.

6 Q. Because -- and, excuse me, could you say why you think  
7 "it's very unlikely"? Because it's economically not  
8 feasible? Because --

9 A. Yes. Because it's economically not feasible.

10 Q. Well, I guess that is a matter of speculation, wouldn't  
11 you say, at this point?

12 A. Yes.

13 Q. Okay. So, I think another theme that I heard in public  
14 hearings by various members of the Planning Board, and  
15 may have been you as well, is that you did not want to  
16 involve the Zoning Board of Adjustment in the  
17 regulatory scheme. Would you confirm that?

18 A. Yes. In fact, the Zoning Board met with the Planning  
19 Board and asked us to specifically draft an ordinance  
20 regarding the industrial wind facilities to  
21 specifically keep it out of their realm.

22 Q. Their realm. And, was that why, therefore, that you  
23 and others, or the majority of the Planning Board then  
24 at the time, opposed, for instance, making a wind

[WITNESS: Webber]

1 energy facility, whether in the RCD or anywhere else in  
2 town, a special exception within the zoning district?

3 A. Yes. If you make it a special exception, it goes back  
4 to the Zoning Board, which is what they asked us not to  
5 do.

6 Q. Okay. And, why would -- why did they ask you not to do  
7 that?

8 A. Because the current ordinances did not properly address  
9 a project like this. And, so, they asked us (1) to  
10 draft an ordinance that would keep it out of their  
11 realm, to -- well, --

12 Q. Keep it out of their realm.

13 A. Yes.

14 Q. Okay. And, so, the net result of that, is it not, that  
15 a special exception, although it would have gone to the  
16 Zoning Board to be administered, it would have had some  
17 criteria built into it, in order to administer it? In  
18 effect, a kind of balancing of issues. So that, when  
19 you sited something like a wind energy facility in  
20 something, in a district, which was devoted, according  
21 to its purpose, "to protect the remote mountain areas",  
22 there would have been some criteria to measure, you  
23 know, the effectiveness of the siting, the  
24 effectiveness of the mitigation?



[WITNESS: Webber]

1 CHAIRMAN GETZ: Well, I have to ask  
2 where we're going with this? I mean, the legitimate areas  
3 of inquiry can go to his expertise to testify, whether  
4 he's biased or competent. His testimony raises issues  
5 about the structures in the Town, in terms of their  
6 ability to handle this project and/or whether there's a,  
7 you know, competence or bias.

8 Now, it seems to me you're going down  
9 the path of what was -- trying to draw a comparison  
10 between what was proposed and what may be proposed, and I  
11 don't think that's relevant to our undertaking today. So,  
12 could you move this along please?

13 MS. GARD: I could. If I may just say  
14 that the reason I'm pursuing this is that I think that  
15 this suggests that there was a legitimate -- is a  
16 legitimate issue about the design of a proper zoning  
17 amendment or ordinance, and that that goes to the heart of  
18 much of the discussion that has gone on. And, that is not  
19 -- not so much a question of this irretrievable local  
20 blocking, which is an issue that you have been called upon  
21 to determine.

22 CHAIRMAN GETZ: Well, I've given you  
23 some latitude to raise the issues about "what's the basis  
24 for charges of dysfunction or the observations of

[WITNESS: Webber]

1 dysfunction?"

2 MS. GARD: Uh-huh.

3 CHAIRMAN GETZ: And, whether there's a  
4 -- whether these earlier --

5 MS. GARD: A professional difference.  
6 I'm sorry. Thank you.

7 CHAIRMAN GETZ: Yes.

8 MS. GARD: Thank you.

9 CHAIRMAN GETZ: But I think what you're  
10 doing now is just accumulative, so --

11 MS. GARD: May I ask a final question?

12 CHAIRMAN GETZ: Please.

13 MS. GARD: Okay.

14 BY MS. GARD:

15 Q. I would like to know whether you considered any other,  
16 if you were dissatisfied with the process as it would  
17 have gone on onto the Zoning Board of Appeals, did you  
18 consider any other zoning approaches, like a  
19 conditional use permit or a special use permit, which  
20 would have an appeal going to the Superior Court, and  
21 not be bogged down in the Zoning Board of Appeals, if  
22 that was your -- if you were dissatisfied with them?

23 A. I'm not sure I completely understand. But we, when we  
24 were on the Planning Board drawing up this ordinance,

[WITNESS: Webber]

1 we did consider a permitted use or a special exception.  
2 And, then, we chose to go the "permitted use" route.  
3 I'm not sure if that was really your question?

4 Q. Yes, it is.

5 A. Okay.

6 Q. So, you preferred the permitted use --

7 A. Yes.

8 Q. -- to allowing an appeal or an administration by the  
9 Zoning Board of Appeal?

10 A. Yes.

11 Q. So, in effect, that served -- would serve, in effect,  
12 to cut off certain rights of minorities in the town?

13 A. I don't believe it would cut off any rights of anybody.

14 MS. GARD: Thank you.

15 WITNESS WEBBER: Okay.

16 CHAIRMAN GETZ: Thank you. Members --  
17 Any questions from the Committee? Commissioner Ignatius.

18 CMSR. IGNATIUS: Good morning, Mr.  
19 Webber.

20 WITNESS WEBBER: Good morning.

21 BY CMSR. IGNATIUS:

22 Q. You said that recently there was a meeting of the Ad  
23 Hoc Committee and you had thought there might be more  
24 to show at that point. But have there been any other

[WITNESS: Webber]

1 meetings of the Planning Board since your filing of  
2 your testimony May 6th?

3 A. Yes.

4 Q. Have they been more productive than you felt things had  
5 been in the past, in your opinion? I don't -- were you  
6 even at those meetings?

7 A. I've been to most of them, but not all of them.

8 Q. Since May 6th, since the filing of your testimony, have  
9 you been at a Planning Board meeting?

10 A. Yes.

11 Q. And, can you characterize for me what you observe? Is  
12 it working well? Not working well among the members?

13 A. The Chairman, Mr. Robblee, reprimanded four members of  
14 the Planning Board, I would say rather severely, for  
15 meeting and not updating -- three of the Board members  
16 met, they updated the fourth member, but not the other  
17 three members. They -- when they walked into the  
18 meeting, they were informed of what had happened at the  
19 prior meeting. The Chair was very upset that he was,  
20 at that point with the public, being updated on what  
21 had happened. When he asked the fourth member why he  
22 knew about it and Mr. Robblee, as the Chair, didn't?  
23 It was Mr. Lazar, he said "well, I'm not going to go  
24 out of my way to help you." Mr. Dubois stated a

[WITNESS: Webber]

1 similar sentiment that, because three of the members of  
2 the Board were in opposition, he didn't feel that he  
3 was going to keep them updated on what was going on.  
4 So, this is -- this is sort of the adversarial  
5 relationship. They're not working. When I sat on the  
6 Board, two of the Board members were opposed to the  
7 ordinance that we were drafting, but we kept them in  
8 the loop, we all met together, we worked together.  
9 They, obviously, were, you know, had a different  
10 opinion, but we voted and we all talked about things.

11 The current Board is not working as a  
12 cohesive unit. They actually seem to be trying to  
13 circumvent the open process. I don't think they work  
14 well together.

15 Q. Have there been meetings of the Selectboard since you  
16 filed your testimony on May 6th?

17 A. Yes.

18 Q. Have you attended any of those meetings?

19 A. Some, not all.

20 Q. Have the meetings you've attended reflected, in your  
21 view, a good working relationship or -- or this kind of  
22 concerns about people not working together well that  
23 you've stated about the Planning Board?

24 A. I would say that it is not a good working relationship

[WITNESS: Webber]

1 with the Planning Board and the Board of Selectmen.

2 Q. Between each other?

3 A. Yes.

4 Q. I was looking at the minutes of the meeting, and I  
5 think this is the Planning Board meeting you were just  
6 talking about, May 19th, 2011?

7 A. Yes.

8 Q. And, that's what was marked as "AWE Exhibit 8". I  
9 don't see your name listed as being present?

10 A. It's not. I was there. My name did not get listed. I  
11 did sign up on the sign-up sheet. But I did notice  
12 that my name wasn't on there.

13 Q. Do you know -- there was testimony previously that the  
14 Town Planner had resigned and there's reference in  
15 these minutes about whether or not to hire a new Town  
16 Planner?

17 A. Yes.

18 Q. Can you give us an update, whether there's a planner  
19 who has now been hired?

20 A. There is not.

21 Q. Do you know if there is an effort underway to hire a  
22 planner?

23 A. By the governing body, the Board of Selectmen, no. By  
24 the Planning Board, yes. They feel that they have the

[WITNESS: Webber]

1 authority to do so. Which, in fact, they do not.

2 Q. So, in your view, as a former selectmen, you think that  
3 the Planning Board does not have the independent  
4 authority to hire a planner?

5 A. I would say that they unequivocally do not have that  
6 authority.

7 Q. Have there been projects in your experience in Antrim  
8 that have been controversial, that are totally  
9 unrelated to the issues of the met tower or this wind  
10 facility?

11 A. Sure.

12 Q. Can you give me an example of something that was  
13 controversial and may have been a split within the  
14 community on the feelings about it?

15 A. A few years back, we put approximately a million dollar  
16 addition on the Library. You know, there were a lot of  
17 people that didn't think it was necessary, didn't want  
18 to spend the money. There's always the new fire truck  
19 that, you know, some people think you have to have and  
20 others don't. But, you know, people are polite and  
21 professional. And, you know, one side wins and one  
22 side doesn't win, but it's civil.

23 Q. In your experience, when there's been a controversy,  
24 have you seen disputes regarding who's in charge

[WITNESS: Webber]

1 between the Selectboard or the Planning Board and who  
2 has the authority to speak?

3 A. Never.

4 Q. You may have been asked this earlier this morning, and  
5 I apologize if I didn't get it. You had said that you  
6 felt the current Planning Board has a majority of  
7 people who are opposed to the ordinance that was  
8 previously developed.

9 A. Yes.

10 Q. Do you also believe that the majority of the Planning  
11 Board is opposed to this project going forward?  
12 Because I don't remember you saying that, and I just  
13 wanted to be sure I knew what your position was.

14 A. In my opinion, I believe that the -- what are called  
15 the "four members of the Planning Board" are opposed to  
16 this project going forward.

17 Q. Do you have any evidence to base that kind of a  
18 conclusion that you haven't already spoken to today or  
19 during your current testimony?

20 A. Mostly it's actions. If they were in favor of the  
21 project going forward, I think they would be working in  
22 a productive manner to draft an ordinance to allow it.  
23 From what I've seen, they are stalling and doing  
24 anything they can not to make this process move

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1 forward. I think that, and this is just my opinion,  
2 but I think that their only strategy is to drag this  
3 out and stall it, and hope that Eolian goes away.

4 Q. So, the assertions by some of the members, we have  
5 prefiled testimony saying they are neutral on the  
6 project, they want to have adequate structures in  
7 place, regulatory structures, before anything goes  
8 forward, you would say is not a complete picture?

9 A. Again, in my opinion, I'm, you know, I'm just sort of  
10 reading between the lines. If that was the case, then  
11 they would do so. They would have -- there's been  
12 ample time to draft an ordinance and regulation.  
13 There's a lot of sort of draft ordinances out there  
14 that they could look at and tweak. It's not -- to  
15 draft an ordinance and regulation, you have a lot of  
16 material out there that you can look at and use. And,  
17 again, the operating agreements with -- in Lempster,  
18 Goshen -- I mean Groton, those are -- those are good  
19 reference materials to use. And, if you wanted to look  
20 at those and take a little out and add a little,  
21 that's, you know, it's right there. But they seem to  
22 be trying to reinvent the wheel. And, they haven't  
23 gotten very far.

24 CMSR. IGNATIUS: Thank you very much.

[WITNESS: Webber]

1 CHAIRMAN GETZ: Other questions?

2 Director Morin.

3 DIR. MORIN: Good morning.

4 BY DIR. MORIN:

5 Q. I wanted to ask, do you know approximately the date  
6 that the Town Planner resigned?

7 A. I'm going to say around the end of May, early June. I  
8 think it was the last day of May, but I'm sort of  
9 guessing.

10 Q. Before this planner resigned, how long had it been that  
11 there was not -- did you have other instances when  
12 there was not a Town Planner in place?

13 A. Not since we hired a Town Planner, which, I don't know,  
14 was 10, 12 years ago, I'm guessing.

15 Q. So, to the best of your knowledge, there's been a Town  
16 Planner in place for approximately 10 years?

17 A. I'm looking at the Selectmen. I'm trying to --

18 Q. Or a significant length of time?

19 A. Yes, a significant length of time.

20 Q. Okay. In your experience on the Selectboard, was the  
21 Town -- how involved was the Town Planner, in terms of  
22 bringing forth projects and discussing issues of  
23 planning with the Selectboard? What was the  
24 relationship?

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1 A. It was a good relationship. The Town Planner worked  
2 well with the Zoning Board, the Planning Board, and the  
3 Selectboard.

4 Q. In terms of financial, does the Selectboard -- does  
5 your town government require that the Selectboard is  
6 the body that decides, approves spending money, such as  
7 your salaries or projects, capital projects,  
8 financially, is the Selectboard responsible for the  
9 approval of expenditure of town funds?

10 A. Yes. They are the sole board that's in charge of that.

11 Q. So, in terms of projects that require planning  
12 expertise, such as a capital project or development  
13 project, does the Town Planner -- was that the only  
14 planning staff the Town had, that's my first question,  
15 was the Town Planner or was there additional staff?

16 A. There was a Town Planner and Assistant Town Planner.

17 Q. And, was that staff responsible for developing the --  
18 to a large extent, the technical merits or the summary  
19 of a project coming forward to the Selectboard, in  
20 terms of approval for any expenditure of Town funds?

21 A. I guess I would say "yes".

22 Q. And, do you have any experience with the Town Planner  
23 in the past being involved in development of Master  
24 Plan and subsequent ordinances or regulations relative

[WITNESS: Webber]

1 to the Master Plan?

2 A. I believe, in 2010, we updated the Master Plan, and the  
3 prior -- the previous Town Planner was -- had worked on  
4 that.

5 DIR. MORIN: Okay. Thank you.

6 CHAIRMAN GETZ: Mr. Scott.

7 DIR. SCOTT: Good morning.

8 WITNESS WEBBER: Good morning.

9 BY DIR. SCOTT:

10 Q. Assuming the Planning Board had an ordinance, a draft  
11 ordinance ready to go, what's the earliest opportunity  
12 that that could be voted on in the Town?

13 A. If they were ready today, they would have to give it to  
14 the Town Clerk, and then five Tuesdays have to pass in  
15 order to have a Special Town Meeting. There would also  
16 have to be -- but you need to back up. Before that  
17 happens, there has to be some public hearings and  
18 postings in the paper. So, I believe there has to be  
19 ten days notice, prior -- once a notice in the paper  
20 goes in, there has to be ten days. Then, you have a  
21 public hearing. If nothing is changed, then you go to  
22 the five Tuesday time frame. So, you're looking at,  
23 you know, almost two months lead time. And, that's if  
24 all your ducks are in a row.

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1 DIR. SCOTT: Thank you.

2 CHAIRMAN GETZ: Mr. Harrington.

3 MR. HARRINGTON: And, good morning.

4 Just a few questions.

5 BY MR. HARRINGTON:

6 Q. You're the former Chair of the Selectmen, the  
7 Selectboard?

8 A. Yes.

9 Q. Okay. And, did you run for re-election?

10 A. No.

11 Q. Okay. This ordinance that was never voted on because  
12 of the -- I guess the posting technicality, or  
13 whatever, if that had passed, let's say that  
14 technicality hadn't happened and the thing was voted  
15 on, do you think it would have been passed by the Town?

16 A. Yes.

17 Q. And, what would have been the consequences of that  
18 then?

19 A. It would have been a permitted use. I'm going to  
20 assume that Antrim Wind would probably be in the  
21 process of either having or would soon be filing an  
22 application.

23 Q. Application with who?

24 A. Well, you know, I'm going to -- even if that had

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1 passed, prior to that happening, the Antrim Board of  
2 Selectmen had requested that the SEC take jurisdiction.  
3 So, I'm -- and here's, you know, some hypotheticals. I  
4 mean, if -- you've got to wait to see where the SEC  
5 goes with this. If they did not take jurisdiction,  
6 then that application would have to go to the Town of  
7 Antrim. Which, in my opinion, is not the place it  
8 belongs. What I had hoped was that that ordinance  
9 would have been voted on, would have passed. The SEC  
10 would have taken or will take jurisdiction. And, the  
11 SEC can use Antrim's ordinance in their decision-making  
12 process.

13 Q. Okay. Well, that helps quite a bit. Thank you. Now,  
14 what's being proposed now is a -- maybe this is more  
15 appropriate for the Planning Board, but let me just get  
16 your take on it. What's being proposed now is a more  
17 detailed ordinance that would actually have performance  
18 criteria and specifics addressing the implementation or  
19 development of a wind farm in Antrim?

20 A. Well, you would think so, but we haven't seen anything  
21 yet.

22 Q. Do you understand that's the goal of what they're  
23 trying to come up with?

24 A. It should be the goal.

[WITNESS: Webber]

1 Q. Okay. And, how would that process work out then? The  
2 Planning Board would develop the proposed ordinance?  
3 Does it go to the Selectmen for approval or --

4 A. It's currently been -- the Planning Board has created  
5 an Ad Hoc Committee, made up of a few members of the  
6 Planning Board and some members of the public. They're  
7 drafting up some -- an ordinance and regulation, then  
8 that would go to the Planning Board, which would then  
9 present it to the Selectmen to go for either a Special  
10 Town Meeting or wait until March, at the regular Town  
11 Meeting.

12 Q. So, it would have to be approved by the Planning Board?

13 A. Yes.

14 Q. And then approved by the Selectmen?

15 A. You know, I don't really think it has to be.

16 Q. Okay. So, the -- but the Planning Board has the  
17 authority to get it on, have it voted on either at a  
18 Special Town Meeting or in the regular scheduled one?

19 A. Yes. The Selectmen can deny the request of a Planning  
20 Board to have a Special Town Meeting.

21 Q. Okay. So, the Selectmen wouldn't necessarily have to  
22 approve the ordinance, but they could defer the voting  
23 on it until the regularly scheduled Town Meeting, which  
24 I'm assuming is next March?

[WITNESS: Webber]

1 A. Yes.

2 Q. Okay. And, then, if that ordinance were to come up, it  
3 sounds like what you're inferring is that at least a  
4 majority of the Planning Board is opposed to the  
5 Project. So, is there a fear that that ordinance or  
6 proposed ordinance would be so restrictive as to make  
7 it almost prohibitive to build the wind farm?

8 A. That is my concern.

9 Q. Has anyone stated that publicly or is this just --  
10 you're just gathering, making a conclusion?

11 A. Yes. Nobody has stated that publicly. No members of  
12 the Planning Board have stated that publicly.  
13 Actually, three members of the Planning Board, the  
14 other three remaining, have stated that, that that's  
15 their concern. You've got four that are what I call  
16 the "adversarial" ones. The other three, their concern  
17 is that this ordinance will be too restrictive.

18 Q. And, they have stated that publicly?

19 A. Yes.

20 Q. That the ordinance would be restrictive enough to make  
21 it impossible virtually to build a wind farm?

22 A. Correct.

23 MR. HARRINGTON: All right. Thank you.  
24 That's all the questions I had, Mr. Chairman.



[WITNESS: Webber]

1 CHAIRMAN GETZ: Other questions? Mr.  
2 Iacopino.

3 BY MR. IACOPINO:

4 Q. Mr. Webber, did I understand you correctly to say that,  
5 other than the discussion regarding this Project, that  
6 the Planning Board has not considered any other  
7 traditional planning board types of cases that come  
8 before it since March?

9 A. Yes. They have looked at some correspondence from  
10 Southwest Regional Planning, some things like that.  
11 But there have been no subdivisions, lot line  
12 adjustments, any typical planning board issues.

13 Q. Do you know if that's because nothing has been filed  
14 that needs their consideration or is that something  
15 that -- or if it's like there's a backlog now?

16 A. No, I believe nothing's going on. You know, there's  
17 not a lot of --

18 Q. Okay.

19 A. Construction and there's no new developments.

20 Q. So, it's not -- what you're not trying to say then,  
21 you're not trying to say that they're not doing that  
22 kind of work because they're bogged down on this? If  
23 petitions for lot line adjustments/site plan review  
24 have not been filed, they don't have the work to do,

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1 right?

2 A. Right. I'm saying that there's not typical planning  
3 board work to do. And, instead of working on an  
4 ordinance, they are working on fighting this SEC taking  
5 jurisdiction.

6 Q. You've sat on the Planning Board. In the previous  
7 testimony, I believe, of Mr. Genest, we heard that the  
8 Planning Board uses a checklist of I think it's 68  
9 items, is that correct?

10 A. Depending on which site plan review you're looking at,  
11 yeah, 84 or 68. It depends on what you're doing.

12 Q. And, if I understand -- well, correct me if I'm wrong,  
13 does your site -- or, tell me, does your site plan  
14 review require that, before you apply for site plan  
15 review, you must first go to the ZBA and obtain any  
16 variances or special exceptions that are necessary?

17 A. I believe that's true.

18 Q. But do you know for sure?

19 A. No.

20 Q. Okay. If the ordinance that had been proposed, but  
21 never voted on had passed, would it be correct to  
22 understand that any -- in the absence of Site  
23 Evaluation Committee review, that any -- that the  
24 Project would still be required to file an application

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1 for site plan review and provide information as  
2 required by whichever is the appropriate checklist, the  
3 68 items or whatever?

4 A. Yes.

5 Q. And, my final question is, do you know, has there ever  
6 been an ad hoc committee of the Planning Board formed  
7 -- from the Planning Board formed in your prior service  
8 with the Town?

9 A. Not during my three years as Selectboard member.

10 Q. Are you aware of other ad hoc committees as part of the  
11 town governance?

12 A. Years ago, yes.

13 Q. Do you know if there is any authority in any of your  
14 planning ordinances, zoning ordinances, or other  
15 ordinances for the creation of an ad hoc committee?

16 A. I believe there is not.

17 MR. IACOPINO: I have no other  
18 questions. Thank you.

19 CHAIRMAN GETZ: Anything further from  
20 the Committee?

21 (No verbal response)

22 CHAIRMAN GETZ: Then, at this point,  
23 we'll excuse Mr. Webber until --

24 MR. RICHARDSON: Mr. Chairman, may I ask

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1 one question on redirect?

2 CHAIRMAN GETZ: Well, we haven't heard  
3 from Mr. Roth or Mr. Mulholland yet. So, let's get them  
4 later today, and then we'll have that opportunity for --  
5 that we had indicated earlier that there will be an  
6 opportunity to ask additional questions after --

7 MR. RICHARDSON: Okay.

8 CHAIRMAN GETZ: -- the counsel.

9 MR. RICHARDSON: My question actually  
10 relates directly to what Mr. Iacopino was just asking, and  
11 I thought it would be timely to finish that issue, if we  
12 could.

13 CHAIRMAN GETZ: Is there any objection?

14 (No verbal response)

15 CHAIRMAN GETZ: Hearing no objection, --

16 MR. LITTLE: Well, I think, you know, I  
17 mean, it seems to me, if we're going to have a second  
18 round, we should wait till Mr. Mulholland does it. I  
19 mean, because otherwise we just, you know, I may have a  
20 question I want to question, too. It seems we would all  
21 just defer it, let Mr. Mulholland go, and Mr. Richardson  
22 could write it down and then go forward then.

23 CHAIRMAN GETZ: Well, Ms. Geiger, if I  
24 let you speak, then, at this point, it will take up more

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1 time than if we just ask the question. So, let's just ask  
2 the question, and then we're going to take a recess.

3 MR. RICHARDSON: I'll be extremely fast.

4 CHAIRMAN GETZ: Just do it from there.

5 MR. RICHARDSON: Okay.

6 BY MR. RICHARDSON:

7 Q. Mr. Webber, you were asked about site plan review, and  
8 you were asked by Attorney Little about whether making  
9 this project a permitted use would result in there  
10 being no criteria. Do you remember that?

11 A. Yes.

12 Q. And, in fact, under -- is it your understanding that,  
13 and for the Committee's record, RSA 674:43 and 44  
14 provide the Planning Board with the authority to review  
15 aesthetics, public safety, those types of things during  
16 site plan review?

17 A. Yes.

18 Q. And, that's what the Planning Board did in the met  
19 tower case, right?

20 A. Yes.

21 Q. And, that case is currently in the court system, right?

22 A. Yes.

23 Q. Okay. And, what do you think would happen with a  
24 project on the merits, were it to go through site plan

[WITNESS: Webber]

1 review?

2 CHAIRMAN GETZ: We're really just  
3 getting down the path of calling for legal conclusions and  
4 speculating what would happen as part of a process.

5 MR. RICHARDSON: I'll withdraw the  
6 question.

7 CHAIRMAN GETZ: I know this is generally  
8 within the realm of his expertise here, but I think it  
9 goes too far.

10 So, let's take -- we're going to take a  
11 recess. And, we'll pick up later this afternoon with  
12 someone from the Public Counsel's office. Mr. Little,  
13 your witnesses will be next, Mr. Pinello and Ms. Levesque,  
14 I understand it -- Ms. Pinello and Mr. Levesque, I don't  
15 want to create any more controversy than is necessary.

16 (Laughter.)

17 CHAIRMAN GETZ: So, if you could have  
18 them ready when we resume in ten minutes.

19 (Whereupon a recess was taken at 10:22  
20 a.m. and the hearing resumed at 10:38  
21 a.m.)

22 CHAIRMAN GETZ: Okay. Let's resume.  
23 And, Mr. Little, if you could call your witnesses please.

24 MR. LITTLE: Yes. I have a question.

[WITNESS PANEL: Pinello~Levesque]

1 Are these -- I was going to put them up seriatim, you  
2 know, one following the other, or do you want them up  
3 together?

4 CHAIRMAN GETZ: I'd like to do them as a  
5 panel please.

6 MR. LITTLE: Okay. All right.

7 CHAIRMAN GETZ: And, let me just note  
8 for other counsel while we're doing this. If you want to  
9 ask a question of a particular witness, then address it to  
10 a particular witness. If you want to ask a question of  
11 the panel, then it's up to you how you want to ask your  
12 questions.

13 MR. LITTLE: Would you both stand.  
14 Would you raise your right hand.

15 (Whereupon *Martha E. Pinello* and  
16 *Charles A. Levesque* were duly sworn and  
17 cautioned by *Atty. Little*.)

18 **MARTHA E. PINELLO, SWORN**

19 **CHARLES A. LEVESQUE, SWORN**

20 **DIRECT EXAMINATION**

21 BY MR. LITTLE:

22 Q. All right. Ms. Pinello, would you please state your  
23 name, address, and spell your last name.

24 A. (Pinello) My name is Martha Pinello, P, as in "Peter",

[WITNESS PANEL: Pinello~Levesque]

1 -i-n-e-l-l-o. I live at 318 Smith Road, in Antrim, New  
2 Hampshire.

3 Q. And, what is your occupation?

4 A. (Pinello) I'm an archeologist.

5 Q. And, are you a member of the Antrim Planning Board?

6 A. (Pinello) Yes, I am.

7 Q. Mr. Levesque, could you please state your name and  
8 address and spell your last name.

9 A. (Levesque) Charles A. Levesque, L-e-v-e-s-q-u-e. My  
10 address is 37 Old Pound Road, in Antrim, New Hampshire.

11 Q. And, Mr. Levesque, could you please state your  
12 occupation.

13 A. (Levesque) I'm a Natural Resource Consultant and a  
14 Licensed Forester.

15 Q. And, each of you have prepared prefiled testimony,  
16 together with exhibits. And, I just show you these  
17 briefly. This is your signature on it, and those are  
18 -- take a look at the exhibits that are attached, those  
19 are the exhibits that were attached to your prefiled  
20 testimony?

21 A. (Levesque) Yes.

22 A. (Pinello) Yes.

23 Q. Now, Ms. Pinello, you have a supplement to one of your  
24 exhibits?

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[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) yes, I do, Mr. Little.

2 Q. And, could you identify which exhibit this is a  
3 supplement to?

4 A. (Pinello) It is a supplement to Exhibit G. It is the  
5 minutes of the Planning Board Ad Hoc Committee. The  
6 previous exhibit ended at Page G-7. This is a  
7 continuation of that, sir.

8 MR. LITTLE: I'd like to have these  
9 marked as a supplement. I have enough copies for -- you  
10 need an original and 14, and then --

11 (Atty. Little distributing documents.)

12 CHAIRMAN GETZ: Well, let me make sure  
13 we're clear on what we're doing, in terms of marking. So,  
14 this is my understanding, Mr. Little. That the testimony  
15 of Ms. Pinello, with all of the exhibits, is marked for  
16 identification as "PB Exhibit 1".

17 MR. LITTLE: Okay.

18 CHAIRMAN GETZ: And, you have these  
19 marked, within them, there are, after the testimony,  
20 there's subheadings on the bottom right-hand corner, you  
21 know, there are lettered exhibits. And, what you're  
22 saying is you want to add to what looks like at the end is  
23 "Exhibit G-1", you want to add to that?

24 MR. LITTLE: Yes. This supplements G-1.

[WITNESS PANEL: Pinello~Levesque]

1 This brings it up-to-date from when that was prepared and  
2 filed.

3 CHAIRMAN GETZ: Okay. All right.

4 MR. LITTLE: Thank you much.

5 MR. RICHARDSON: Mr. Chairman, I'm going  
6 to object to the marking of this exhibit for  
7 identification. The most recent document on it is  
8 June 15th. Here we are on the 27th, I don't know why this  
9 couldn't have been provided beforehand.

10 CHAIRMAN GETZ: Well, we're going to  
11 allow this. I think the issue's already -- the door's  
12 already been opened to what's been going on with the Ad  
13 Hoc Committee. So, I'm going to permit that this exhibit  
14 be marked for identification.

15 MR. LITTLE: Thank you. Oh, I had one  
16 other question.

17 BY MR. LITTLE:

18 Q. Did you, to supplement your testimony, Ms. Pinello, you  
19 heard the testimony of Mr. Webber concerning the  
20 Planning Board and its activities since March?

21 A. (Pinello) Yes.

22 Q. Have you prepared a table that you can refer to that  
23 reflects the activities of the Planning Board since the  
24 beginning of March?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) Yes, sir.

2 MR. RICHARDSON: Mr. chairman, the same  
3 objection. We're talking about things that happened in  
4 March. This could have been provided a month ago.

5 MR. LITTLE: Mr. Webber's testimony was  
6 just offered concerning the dysfunction that he alleges  
7 occurred since March.

8 CHAIRMAN GETZ: I'm going to permit this  
9 discussion of the Ad Hoc Committee. But let me just make  
10 clear for the record that what was previously "Exhibit  
11 G-1, and there's been a substitute for that that includes  
12 what was there, plus the additional material. So, there's  
13 no other markings that's needed, Mr. Patnaude.

14 BY MR. LITTLE:

15 Q. And, is that -- could you -- you prepared a table of  
16 the Planning Board meetings since then?

17 A. (Pinello) I prepared a table that starts at March 17th,  
18 2011, and continues to March 19th, 2011, listing the  
19 votes as recorded in the minutes of the Planning Board.

20 Q. March -- continues to what date?

21 A. (Pinello) May 19th. Thank you.

22 Q. And, without going into the specificity of each  
23 meeting, has the meeting -- what has been the conduct  
24 of the meetings, in terms of the members and votes on

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1 issues presented to the Board at those meetings?

2 A. (Pinello) We have had a quorum at each meeting. We  
3 have voted, the majority of the votes are all in favor  
4 or all opposed.

5 Q. So, the Board has acted with unanimity on the points  
6 before it?

7 A. (Pinello) With -- some points with unanimity, and then,  
8 with other points, with a majority, a simple majority  
9 vote.

10 MR. LITTLE: Thank you. I can -- if it  
11 pleases the Commission, we have the table, we can mark it.  
12 I just asked her to summarize it. It's up to the  
13 Commission if they want it marked as a separate exhibit.  
14 But, directly, it was offered as a refutation of  
15 Mr. Webber's characterization about a half hour ago.

16 CHAIRMAN GETZ: Well, let's mark it as  
17 an exhibit for identification. And, then, if there is any  
18 issues that we need to deal with later, we'll deal with  
19 them then. So, that would be -- well, the Pinello  
20 testimony and exhibits is "PB-1", the Levesque testimony  
21 and exhibits is "PB-2", and, so, we'll mark this for  
22 identification as "PB-3".

23 (The document, as described, was  
24 herewith marked as **Exhibit PB-3** for

[WITNESS PANEL: Pinello~Levesque]

1 identification.)

2 CHAIRMAN GETZ: There are no other  
3 exhibits outstanding, is that correct, Mr. Little?

4 MR. LITTLE: There are no other exhibits  
5 outstanding. I stand corrected. Let me just -- there's  
6 one other exhibit. There's ten --

7 (Atty. Little and Atty. Iacopino  
8 distributing.)

9 BY MR. LITTLE:

10 Q. The final exhibit, with the Commission's indulgence, is  
11 this another -- can you describe what this document is  
12 in front of you, Ms. Pinello?

13 A. (Pinello) The document is entitled "Ad Hoc Committee  
14 Plan of Work". It has been approved by the Antrim  
15 Planning Board at their last meeting.

16 Q. And, when was their last meeting?

17 A. (Pinello) I'm sorry. June 16th. Thank you.

18 MR. RICHARDSON: Mr. Chairman, I'd just  
19 like to state the same objection for this. That this is  
20 truly rebuttal of the prefiled testimony that the  
21 Selectmen and Mr. Webber submitted in May. These  
22 documents were, obviously, prepared in advance of this  
23 proceeding.

24 MR. LITTLE: Well, on this document, Mr.

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1 -- members of the Commission, Mr. Commissioner, this,  
2 obviously, couldn't have been presented much until after  
3 June 16th. And, this is in direct refutation to the  
4 testimony of Mr. Webber offered today on cross. Thank  
5 you.

6 CHAIRMAN GETZ: We're going to mark this  
7 one-page exhibit "Ad Hoc Committee Plan of Work" as  
8 "PB-4".

9 (The document, as described, was  
10 herewith marked as **Exhibit PB-4** for  
11 identification.)

12 CHAIRMAN GETZ: So, Mr. Little, can you  
13 qualify the witnesses and offer them -- and tender them  
14 for cross?

15 MR. LITTLE: Pardon?

16 CHAIRMAN GETZ: The witnesses have been  
17 sworn.

18 MR. LITTLE: Yes.

19 CHAIRMAN GETZ: But do you want to go  
20 through qualifying them and having them adopt their  
21 testimony, *etcetera*?

22 BY MR. LITTLE:

23 Q. Well, you've identified the testimony, you adopt the  
24 testimony, Ms. Pinello, you adopt the prefilled

[WITNESS PANEL: Pinello~Levesque]

1 testimony and exhibits as supplemented today?

2 A. (Pinello) Yes.

3 Q. Mr. Levesque, you've prefiled your testimony and  
4 exhibits, you adopt that as your testimony today?

5 A. (Levesque) Yes, I do.

6 MR. LITTLE: And, you're then subject to  
7 cross.

8 CHAIRMAN GETZ: Mr. Block, questions for  
9 these witnesses?

10 MR. BLOCK: No. No questions at this  
11 time.

12 CHAIRMAN GETZ: Ms. Allen?

13 MS. ALLEN: No questions.

14 CHAIRMAN GETZ: And, Mr. Froling?

15 MR. FROLING: No questions.

16 CHAIRMAN GETZ: Ms. Von Mertens?

17 MS. VON MERTENS: No. No questions.

18 CHAIRMAN GETZ: Then, Mr. Webber?

19 MR. WEBBER: No questions.

20 CHAIRMAN GETZ: Mr. Richardson?

21 MR. RICHARDSON: By agreement, I am  
22 going to follow after Antrim Wind Energy.

23 CHAIRMAN GETZ: Okay. Ms. Geiger.

24 MS. GEIGER: Thank you very much, Mr.

[WITNESS PANEL: Pinello~Levesque]

1 Chairman. Good morning, Ms. Pinello and Mr. Levesque.  
2 Just give me a moment to -- I think I'll ask questions, to  
3 the extent I can, separately.

4 **CROSS-EXAMINATION**

5 BY MS. GEIGER:

6 Q. I'll start with you, Mr. Levesque. Mr. Levesque, is  
7 your prefiled testimony made on behalf of the Planning  
8 Board or on your own personal behalf?

9 A. (Levesque) On behalf of the Planning Board.

10 Q. Okay. Isn't it true at the technical session that we  
11 were at on May 27th, 2011 in this matter, in response  
12 to questions from me, you indicated that your prefiled  
13 testimony was "being submitted on your own behalf and  
14 not on behalf of the Planning Board." Do you remember  
15 that?

16 A. (Levesque) Yes, I do. I was mistaken.

17 Q. Okay. And, why did you believe at the technical  
18 session that you were testifying on your own behalf and  
19 not on behalf of the Planning Board?

20 A. (Levesque) Simply because I didn't recall the actual  
21 vote that we took in the Planning Board. I had to go  
22 back in the minutes to see that, that, in fact, it was  
23 for the Planning Board.

24 Q. Okay. So, you thought, at the tech session, you



[WITNESS PANEL: Pinello~Levesque]

1 thought that you submitted prefiled testimony, and that  
2 the Planning Board hadn't voted to approve it?

3 A. (Levesque) No, that's not correct.

4 Q. Oh. Okay. What did you think, I'm sorry?

5 A. (Levesque) I just wasn't sure what the actual vote was  
6 before the Planning Board that night.

7 Q. Okay. Okay. Who made the decision that you would be  
8 testifying on behalf of the Planning Board?

9 A. (Levesque) Our counsel brought the idea that I would be  
10 here providing testimony to the Antrim Planning Board.

11 Q. Okay. When was that done?

12 A. (Levesque) I believe it was the evening before, I think  
13 it was May 31st, what is off the top of my head, before  
14 we were here last, I believe is the evening where the  
15 Planning Board voted to that effect.

16 Q. Okay. So, they voted the -- and, I believe your  
17 prefiled testimony is dated "May 20, 2011", is that  
18 correct?

19 A. (Levesque) Yes.

20 Q. Okay. And, are you saying that the Planning Board  
21 didn't vote to authorize that testimony until May 31st?

22 A. (Levesque) There was a draft of it dated May 20th, and  
23 that date apparently stayed on what was adopted on the  
24 31st.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay. So, why isn't the Chairman of the Planning  
2 Board, Mr. Robblee, testifying on behalf of the  
3 Planning Board?

4 A. (Levesque) I don't know.

5 Q. Okay. Now, did the full Planning Board review and  
6 approve your prefiled testimony before you filed it  
7 with the SEC?

8 A. (Levesque) Yes, they did.

9 Q. Now, could you please refer to, I believe I've marked  
10 it this morning, it's the Antrim Wind Energy Exhibit 8,  
11 and it's the minutes of the May 19th, 2011 Planning  
12 Board Meeting. Do you have that?

13 A. (Levesque) I do.

14 Q. Okay. Now, if you look on Page 1 of that exhibit,  
15 isn't it true that these minutes reflect that the Board  
16 didn't ask you to draft testimony on its own behalf,  
17 and, in fact, that the Chairman of the Planning Board  
18 was not informed until May 19th that you were drafting  
19 prefiled testimony that was due May 20th? Do you see  
20 that?

21 A. (Levesque) Were exactly are you referring in these  
22 minutes?

23 Q. Okay. If you look at Page 1, --

24 A. (Levesque) Uh-huh.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 MR. HARRINGTON: Excuse me, Mr.  
2 Chairman. What's the document?

3 CHAIRMAN GETZ: This is the Exhibit  
4 AWE-8, the Planning Board Minutes from May 19th that was  
5 submitted this morning.

6 BY MS. GEIGER:

7 Q. If you look, I think, at the second to the last line on  
8 Page 1, it says that "Chair Robblee said he was taken  
9 by surprise when the testimonies of Ms. Pinello and  
10 Mr. Levesque showed up [Thursday morning]. He  
11 questioned why he did not know about it." Do you see  
12 that?

13 A. (Levesque) Yes, I see that.

14 Q. Okay. So, does that -- that indicates to me, and would  
15 you agree, that these minutes reflect that the Chairman  
16 apparently didn't know that you were going to be filing  
17 testimony on behalf of the Planning Board until  
18 Thursday, May 19th?

19 A. (Levesque) That's what he said, yes.

20 Q. Okay.

21 A. (Levesque) And, I think I'm mistaken about the date we  
22 adopted this. I just don't have the dates in front of  
23 me. So, this is probably the meeting that we did it.

24 Q. Okay. Can I ask you, I have a separate question, which

[WITNESS PANEL: Pinello~Levesque]

1 testimony is the testimony of the Antrim Planning  
2 Board? Is it yours, Ms. Pinello's, or both of yours  
3 together?

4 A. (Levesque) As I understand it, both.

5 Q. Okay. So, if you and Ms. Pinello don't agree on an  
6 issue, which is the position -- which position  
7 prevails?

8 A. (Levesque) Well, I don't think we're at that point yet,  
9 Ms. Geiger.

10 Q. Okay. Mr. Levesque, you work in the biomass industry,  
11 is that correct?

12 A. (Levesque) I'm a Natural Resource Consultant, and  
13 biomass is one of the areas that our business is in.

14 Q. So, your company provides support services for biomass  
15 facilities, is that right?

16 A. (Levesque) In part. Right.

17 Q. Okay. Isn't it true that biomass facilities compete  
18 with wind energy facilities and other energy facilities  
19 for power purchase agreements and renewable energy  
20 credits?

21 A. (Levesque) They could, in certain instances.

22 Q. Okay. Is it fair to say that you have a personal  
23 interest in whether or not a wind energy facility is  
24 developed in New Hampshire?

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) In New Hampshire?

2 Q. Yes.

3 A. (Levesque) A personal interest in New Hampshire? We  
4 don't have any clients at this time in that regard.  
5 No.

6 Q. So, in the New England region, do you have a personal  
7 and financial interest in whether or not a wind energy  
8 facility is developed in New England?

9 A. (Levesque) At this time?

10 Q. Yes.

11 A. (Levesque) I don't believe so. I mean, we have had  
12 wind energy clients in the past, as well as biomass  
13 clients.

14 Q. Okay. Are you familiar with the Ad Hoc Committee  
15 that's developing recommendations for zoning and  
16 planning ordinances for wind energy projects in Antrim?

17 A. (Levesque) I am familiar with it.

18 Q. Do you believe that your role as a Planning Board  
19 member, that might, in the future, include reviewing an  
20 Ad Hoc Committee proposed ordinance, is affected in any  
21 way by your personal and financial involvement in the  
22 biomass industry?

23 A. (Levesque) I don't believe so.

24 Q. Okay. Now, could you please turn to Page 8, Line 17

[WITNESS PANEL: Pinello~Levesque]

1 and 18 of your prefiled testimony. Do you have that?  
2 And, there you say "if the project gets built, it must  
3 be done in a manner that protects the environment and  
4 the health, safety and welfare of the citizens of  
5 Antrim. This is the legislative responsibility of the  
6 Planning Board." Isn't it also true that the Site  
7 Evaluation Committee has that responsibility?

8 A. (Levesque) Yes.

9 Q. Now, with regard to the issue of legal counsel for the  
10 Planning Board, isn't it true that the Board of  
11 Selectmen didn't approve the hiring of legal counsel  
12 for the Planning Board's opposition to the Board of  
13 Selectmen's petition for SEC jurisdiction?

14 A. (Levesque) That's not correct.

15 Q. What do you believe occurred in that regard?

16 A. (Levesque) The Antrim Planning Board asked the Board of  
17 Selectmen for funding to hire legal counsel. The  
18 Antrim Planning Board had already approved the hiring  
19 of legal counsel. We had, at the time that we did  
20 that, there was still a budget for legal counsel before  
21 the planning department, which includes the Planning  
22 Board and the Zoning Board of Adjustment. We went to  
23 the Planning Board to ask for additional funding -- to  
24 the Board of Selectmen to ask for additional funding.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 Q. And, what did the Board of Selectmen say to that  
2 request?

3 A. (Levesque) "No."

4 Q. They said "no". And, isn't it true that you raised a  
5 motion in the -- at the May 19th Planning Board Meeting  
6 to raise money through private donations, since the  
7 Town wouldn't be funding your legal fees, that you  
8 moved to have private donations solicited to pay for  
9 your attorney to advocate against the Site Committee's  
10 jurisdiction, is that correct?

11 A. (Levesque) If that's what the minutes say. I don't  
12 know where in the minutes you're referring, but,  
13 certainly, that happened at that meeting.

14 Q. If you could look at Page 3.

15 A. (Levesque) All right. Yes.

16 Q. Do you see that?

17 A. (Levesque) Yep.

18 Q. Okay. Do you plan to solicit funds from  
19 biomass-related facilities to assist you in your  
20 efforts to pay for legal counsel?

21 A. (Levesque) I haven't begun that work yet. So, the  
22 answer is "I don't know."

23 Q. You don't know, okay. What is your plan for raising  
24 private donations to pay for --

[WITNESS PANEL: Pinello~Levesque]

1 MR. LITTLE: I'm not sure this is  
2 relevant to the issues of whether the SEC should take  
3 jurisdiction.

4 CHAIRMAN GETZ: Well, I think it goes to  
5 the issue of whether the witness is biased. So, I think  
6 it's fair inquiry. We'll permit it.

7 BY MS. GEIGER:

8 Q. Do you have a plan for that, Mr. Levesque, for raising  
9 those donations that are reflected in your motion at  
10 the May 19th meeting?

11 A. (Levesque) At this point I haven't done anything in  
12 that regard. But I am planning on soliciting from  
13 residents in the Town of Antrim.

14 Q. Okay. Now, what was the first date -- what was the  
15 date of the first meeting that you attended as a  
16 Planning Board member in Antrim?

17 A. (Levesque) I believe it was March 17th.

18 Q. Okay. And, now, you voted at that meeting to  
19 reconsider a previous Planning Board decision to ask  
20 the Selectboard to call a Special Town Meeting to vote  
21 on a proposed zoning ordinance amendment to allow wind  
22 facilities in the Rural Conservation District, is that  
23 correct?

24 A. (Levesque) Yes.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}



[WITNESS PANEL: Pinello~Levesque]

1 Q. And, why did you vote in that way?

2 A. (Levesque) Because I did not believe that the proposal  
3 that the Planning Board had put forward for --  
4 originally for a regular Town Meeting vote was  
5 appropriate.

6 Q. Was the issue that we just discussed, the issue of  
7 reconsidering the previous -- previous Planning Board  
8 vote, was that issue noticed publicly for the meeting  
9 at which that vote was taken?

10 A. (Levesque) It came under "other business", I believe.

11 Q. But it wasn't specifically noticed, correct?

12 A. (Levesque) I'm not sure. I don't believe so.

13 Q. Okay. Mr. Levesque, could you please turn to Exhibit A  
14 of your prefiled testimony. And, I believe that's a  
15 list of projects --

16 A. (Levesque) Right.

17 Q. -- that your company has worked on. And, there I see  
18 that you've stated your company "Researched and wrote  
19 [the] State Energy Plan", is that correct?

20 A. (Levesque) Yes.

21 Q. And, I'd like to show you some documents, along with a  
22 cover page, entitled "New Hampshire Energy Plan", dated  
23 "November 2002", along with three pages that are  
24 excerpts from Section 4 of that Plan. First, I'm going

[WITNESS PANEL: Pinello~Levesque]

1 to ask you if you recognize the document as being the  
2 New Hampshire Energy Plan that is referenced in the  
3 Appendix A or Exhibit A to your testimony?

4 A. (Levesque) It certainly looks like the document, yes.

5 Q. Okay. And, I'd like to also show you some text on Page  
6 4-1. It's the first page under the cover page.

7 MS. GEIGER: And, actually, I'd like to  
8 have this marked. And, it may be easier for the members  
9 of the Committee to follow along, if that's okay?

10 (Atty. Geiger and Atty. Iacopino  
11 distributing documents.)

12 MS. GEIGER: And, I do have an extra  
13 copy, if you need one.

14 CHAIRMAN GETZ: We'll mark for  
15 identification as "AWE Exhibit 10", I believe, an excerpt  
16 from the New Hampshire Energy Plan from November 2002.

17 (The document, as described, was  
18 herewith marked as **Exhibit AWE-10** for  
19 identification.)

20 BY MS. GEIGER:

21 Q. Okay, Mr. Levesque. Now, you've indicated that this  
22 text comes from the State Energy Plan that your company  
23 helped --

24 A. (Levesque) Yes, our company helped. Eric Kingsley, our

[WITNESS PANEL: Pinello~Levesque]

1 vice president, was the author. He assisted the OEP  
2 staff in developing this plan. It was not me.

3 Q. Okay.

4 A. (Levesque) It was Eric Kingsley.

5 Q. Okay. Could you please read the highlighted text in  
6 Section 4-1 on the first page there.

7 A. (Levesque) "It was acknowledged that the State should  
8 explore ways to review some projects that fall outside  
9 of the scope of New Hampshire siting process, namely  
10 smaller projects such as distributed generation and  
11 renewable technologies."

12 Q. Okay. Do you agree with that statement?

13 A. (Levesque) Yes.

14 Q. Okay. Could you also read out loud the text that I  
15 have highlighted at the bottom of Page 4-3.

16 A. (Levesque) "As a result of this ability to "opt-in" to  
17 the SEC process, an applicant for a project less than  
18 30 megawatts could utilize the SEC process to preempt  
19 local jurisdiction, as well as to access the aggressive  
20 schedule that the statute requires [the] SEC to  
21 follow."

22 Q. Thank you. Now, Mr. Levesque, do you agree with the  
23 statements that you've just read in the State Energy  
24 Plan, that a less than 30-megawatt energy facility can

[WITNESS PANEL: Pinello~Levesque]

1 "opt-in" to the Site Evaluation process to preempt  
2 local zoning and to access the aggressive schedule that  
3 the SEC must follow?

4 A. (Levesque) Yes. I agree that a project can request  
5 that of the SEC.

6 Q. But you agree that the State Energy Plan talks about a  
7 project being able to -- an under 30 megawatt project  
8 being able to "opt-in", correct?

9 A. (Levesque) Yes. That is the jurisdiction that the SEC  
10 can take, if it chooses.

11 Q. Okay. Now, I have a question, I'm not sure if it's for  
12 you or for Ms. Pinello, because my understanding is  
13 that Ms. Pinello is chairing the Ad Hoc Committee. So,  
14 Ms. Pinello, feel free to chime in, if you believe that  
15 you're the more appropriate witness for this answer.  
16 But has either an ordinance amendment or a new site  
17 plan review regulation been drafted yet for this  
18 Project?

19 A. (Pinello) As a matter of fact, yes. I have a notebook  
20 of that with me.

21 Q. Has the public been made aware of that?

22 A. (Pinello) The -- excuse me -- the draft of an ordinance  
23 -- the work of the Ad Hoc Committee was brought to the  
24 Planning Board on our last meeting on the 16th. The

[WITNESS PANEL: Pinello~Levesque]

1 Planning Board, at that time, opted to have a work  
2 session scheduled on June 30th to continue that. That  
3 was a public meeting that that was held at.

4 Q. But the public hasn't had an opportunity to review any  
5 draft regulation or ordinance yet, have they?

6 A. (Pinello) No. We had a public input session, and we  
7 wanted to have that prior to completing our draft prior  
8 to the work session. So, we'd have public input, put  
9 that into the work of the Ad Hoc Committee.

10 Q. Okay. I think, then, I'll shift to you, Ms. Pinello,  
11 because I do have some questions along those lines,  
12 although I may not be done specifically with  
13 Mr. Levesque. Let's see. When do you expect those  
14 drafts to be made publicly available?

15 A. (Pinello) I believe, if you look at the schedule of the  
16 Ad Hoc Committee Plan of Work, you can see that the  
17 work session is scheduled for June 30th. And, then,  
18 the period starting July 1 is a period of review. And,  
19 that's --

20 Q. Could you please explain to me, and I'm looking at  
21 Planning Board Exhibit Number 4, PB-4, you've indicated  
22 that there will be a work session this coming Thursday  
23 evening. What will that entail? What do you expect to  
24 happen there?

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

- 1 A. (Pinello) I expect to have the Ad Hoc Committee --  
2 what's on the agenda is the Ad Hoc Committee and the  
3 Planning Board will meet and review the documents that  
4 have been discussed by the Planning Board at its past  
5 meeting, and begin to work on to review the ordinance,  
6 the site plan regulations, and the definitions.
- 7 Q. And, do members of the public have an opportunity at  
8 that June 30th meeting to have access to this draft  
9 that's being considered?
- 10 A. (Pinello) Yes. It's a public document.
- 11 Q. Okay. When will it be made public?
- 12 A. (Pinello) It will be made public when it's turned into  
13 the -- when the Chairman chooses to do that.
- 14 Q. Okay. So, then, what's going to happen, you said  
15 "starting July 1st", which is the next day, "through  
16 July 20th"?
- 17 A. (Pinello) Uh-huh.
- 18 Q. Could you please explain what those tasks are. "Send  
19 to SWRPC", what does that mean?
- 20 A. That's "Southwest Regional Planning Commission", ma'am.
- 21 Q. And "NHOEP"?
- 22 A. (Pinello) "New Hampshire Office of Energy and  
23 Planning".
- 24 Q. "And Legal Counsel for review." So, those three groups

[WITNESS PANEL: Pinello~Levesque]

1 of people are going to be reviewing this draft  
2 ordinance, is that correct?

3 A. (Pinello) Yes.

4 Q. Okay. And, then, on the next -- the next step is  
5 July 20th you're going to have a "public input  
6 session"?

7 A. (Pinello) Yes, ma'am.

8 Q. Okay. And, what will that involve? People being able  
9 to comment publicly on the draft?

10 A. (Pinello) Yes.

11 Q. Now, Ms. Pinello, getting back to the issue of your  
12 testimony. Now, on Page -- the exhibit that we had  
13 marked here as "AWE Exhibit 8", the Planning Board  
14 Minutes of May 19th, do you have that?

15 A. (Pinello) May 19th?

16 Q. Yes.

17 A. (Pinello) I do now. Yes, ma'am.

18 Q. And, if you turn to Page 2, it indicates there, maybe  
19 about two-thirds of the way down, it indicates that you  
20 "prepared [your] personal testimony and had not shared  
21 it with [other Planning Board members]", and that you  
22 had "erred" in doing that. Did I read that correctly?

23 A. (Pinello) Could you please give me a paragraph and a  
24 line?

[WITNESS PANEL: Pinello~Levesque]

1 Q. Sure. If you look at the second page, about two-thirds  
2 of the way down, the sentence begins "Ms. Pinello said  
3 she appreciated the Chair's frankness".

4 A. (Pinello) Thank you.

5 Q. Does the remainder of that sentence indicate that you  
6 had not shared your "personal" testimony with other  
7 Planning Board members?

8 A. (Pinello) I had not shared my testimony with anyone.

9 Q. Okay. And, why not?

10 A. (Pinello) At the time that I was preparing -- that I  
11 was asked by other intervening groups to prepare my  
12 testimony, I knew, as a witness, as I understood that  
13 witness's statements are crafted and created and are  
14 not -- there for the purpose of presenting testimony.

15 Q. Would you please turn to Page 3 of the May 19th  
16 minutes. And, isn't it true, at the top of the page  
17 there, the sentence that begins "Mr. Robertson asked  
18 who Ms. Pinello would be testifying for", at the end of  
19 that paragraph there, he stated that "Ms. Pinello's  
20 testimony should not be the Board's testimony." Do you  
21 see that?

22 A. (Pinello) Yes.

23 Q. Why did Mr. Robertson think that?

24 A. (Pinello) You would have to ask Mr. Robertson.



[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay. So, could you please -- oh, could you please  
2 indicate why the Chairman of the Planning Board hasn't  
3 signed on to either your testimony or Mr. Levesque's  
4 testimony?

5 A. (Pinello) I believe it is a vote of the Planning Board  
6 that our testimony is submitted.

7 Q. Okay. And, why isn't -- why isn't Mr. Robblee  
8 testifying here on behalf of the Planning Board?

9 A. (Pinello) You'd have to ask Mr. Robblee that.

10 Q. Okay. On Page 8 of your prefiled filed testimony,  
11 talking about the Ad Hoc Committee, could you -- I  
12 think you've -- I think, I want to make sure, I don't  
13 want to put words in your mouth, does PB-4, Exhibit  
14 PB-4 accurately reflect the status of the work done  
15 thus far and what you intend to do in the future?

16 A. (Pinello) I'm pleased to say that we've met our  
17 deadlines, yes.

18 Q. Who is -- are you the Chair of the Ad Hoc Committee, is  
19 that right?

20 A. (Pinello) I'm the Convener, ma'am.

21 Q. "Convener". And, what's the difference between a  
22 "Convener" and a "Chair"?

23 A. (Pinello) The Ad Hoc Committee is under the  
24 responsibility of the Planning Board. We report back

[WITNESS PANEL: Pinello~Levesque]

1 to the Planning Board.

2 Q. Okay. Are there still any vacancies on the Ad Hoc  
3 Committee?

4 A. (Pinello) The Planning Board discussed filling  
5 vacancies. And, what we chose to do at this time was  
6 to have David Dubois serve, as a Planning Board member,  
7 serve on the Committee. And, then, the Planning Board  
8 has set aside a portion of its meeting each time to  
9 have the Ad Hoc Committee report back, and then the  
10 Planning Board goes into -- works on the material that  
11 has been reported back.

12 Q. When does the Ad Hoc Committee typically meet?

13 A. (Pinello) We meet at 6:30 in the morning, because each  
14 member of the planning -- of the Ad Hoc Committee has  
15 an evening commitment through its civics  
16 responsibilities.

17 Q. Do members of the public attend those 6:30 in the  
18 morning meetings?

19 A. (Pinello) Yes, they do.

20 Q. Okay. Are Ad Hoc Committee members allowed to discuss  
21 their work with representatives of the Antrim Wind  
22 Project?

23 A. (Pinello) The Committee made a choice, in the first  
24 minutes, you can see that the Committee made a decision

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 that, if members discuss with Eolian or Antrim Wind  
2 representatives, that they would -- individually, that  
3 they would disclose that to the larger group.

4 Q. And, what was the reason for that rule of conduct? Why  
5 can't members of the Committee talk to Antrim Wind?

6 MR. LITTLE: Objection. That's not what  
7 her testimony is.

8 BY MS. GEIGER:

9 Q. Why is it -- I believe the minutes indicate, MEP  
10 Exhibit 1 attached to your testimony said "Ad Hoc  
11 members urged not to meet/talk individually with  
12 potential applicants", correct?

13 A. (Pinello) Yes.

14 Q. "Urged not to do that." Why are they urged not to do  
15 that?

16 A. (Pinello) I had spoken with the Assistant Secretary of  
17 State of the State of New Hampshire, who recommended  
18 that members of the Board not speak with potential  
19 applicants individually, or that they disclose them if  
20 they do.

21 Q. Okay. Do you know whether any members of the Ad Hoc  
22 Committee are opposed to the Antrim Wind Project?

23 A. (Pinello) I do not know of any of that.

24 Q. Now, isn't it true that your husband's on record as

[WITNESS PANEL: Pinello~Levesque]

1 opposing the installation of wind turbines in the  
2 Project's proposed site?

3 A. (Pinello) I'd have to look at my husband's testimony.  
4 Quite frankly, we're different people.

5 Q. Okay. But -- okay. So, if I were to show you what's  
6 already been marked in this proceeding as "AWE Exhibit  
7 3", this is Mr. Kenworthy's supplemental prefiled  
8 testimony, and attached to that is a letter from Peter  
9 Beblowski. Is he your husband?

10 A. (Pinello) Yes, he is.

11 Q. Okay. Could you read the sentences that I have  
12 highlighted there. And, again, this is Attachment  
13 JBK-4, Page 2, of AWE Exhibit 3.

14 A. (Pinello) I've been asked to read the testimony of  
15 Peter Beblowski before the ZBA, Antrim ZBA: "I would  
16 like to speak briefly about this project", and then  
17 it's excerpted. And, then, the next paragraph, first  
18 sentence says: "Additionally, this project if allowed  
19 to go forward sits adjacent to the Robb Reservoir Wild"  
20 -- excuse me -- "Waterfowl Management Project." And,  
21 then, an excerpted section. "I do not think it would  
22 be right to site wind turbines in close proximity to  
23 such a project" -- or "property", excuse me.

24 Q. Ms. Pinello, do you believe that you can act fairly and

[WITNESS PANEL: Pinello~Levesque]

1           objectively as a member of the Antrim Planning Board  
2           and the Ad Hoc Committee, in light of your husband's  
3           position against the proposed location of the Antrim  
4           Wind turbines?

5   A.   (Pinello) Ma'am, I have been married to Peter Beblowski  
6           for over 30 years. We have had many differing points  
7           of view.

8                         MR. LITTLE: I would object. The issue  
9           here is not what the Board might ultimately decide on an  
10          application, which, as far as I'm concerned, is really  
11          nascent. The issue is adoption of an ordinance. I think  
12          that question is actually highly irregular.

13                        MS. GEIGER: Well, I also, and perhaps  
14          you didn't hear me, and I apologize for that, but I'm  
15          asking the witness if she believes she can act fairly and  
16          objectively as a member of this Ad Hoc Committee, who is  
17          supposed to be developing an ordinance, in light of the  
18          fact that her husband has indicated publicly that he does  
19          not favor the proposed location of the Antrim Wind  
20          turbines.

21                        CHAIRMAN GETZ: And, I think bias is a  
22          legitimate area of inquiry. The question's been asked and  
23          the witness has answered. So, let's proceed.

24   BY MS. GEIGER:

[WITNESS PANEL: Pinello~Levesque]

1 Q. On Page 9 of your prefiled testimony, Ms. Pinello, you  
2 said that it would take the Ad Hoc Committee until  
3 November 5th to act, and then the Planning Board would  
4 have another three months, which, by my count, takes us  
5 up to February 5th to consider any recommendations for  
6 an amendment to the zoning ordinance, is that correct?

7 A. (Pinello) Just a minute, ma'am. I need to be clear  
8 where I am in my prefiled testimony.

9 Q. Sure. Page 9.

10 A. (Pinello) Yes.

11 Q. I believe it's in the middle of the page. You talk  
12 about the timing that it would take for you to develop  
13 -- for the Ad Hoc Committee to act, and then for there  
14 to be some -- the Planning Board to have another three  
15 months.

16 A. (Pinello) Yes.

17 Q. You see that?

18 A. (Pinello) Yes.

19 Q. Okay.

20 A. (Pinello) This -- those dates are the dates that were  
21 approved by the Planning Board in the charge for the Ad  
22 Hoc Committee. And, as you can see, the Ad Hoc  
23 Committee has, since its formation, created a schedule  
24 that is more aggressive than that.

[WITNESS PANEL: Pinello~Levesque]

1 Q. And, why has there been a change? What leads you to  
2 believe that your original -- original assumptions  
3 about the schedule for the Town to act on this matter  
4 can be done earlier than the -- well, now, you're  
5 saying, in PB-4, that the schedule is a lot earlier.  
6 Why the change?

7 A. (Pinello) Based on examining the work for the Committee  
8 members, the Ad Hoc Committee and the Planning Board  
9 came up with a schedule that was more aggressive, that  
10 meant we were able to meet those, looking at those  
11 specific tasks, once the Committee started meeting.

12 Q. Now, wouldn't an ambiguous schedule as that, that's  
13 reflected in PB-4, assume that the full Planning Board  
14 approves the recommendations and that no redrafting is  
15 necessary?

16 A. (Pinello) I believe the schedule does have  
17 opportunities for changes and for review.

18 Q. Now, doesn't the -- doesn't the Board of Selectmen need  
19 to vote to bring any changes to the zoning amendments  
20 to a Special Town Meeting?

21 A. (Pinello) Yes.

22 Q. Okay. And, do you, based on the testimony that we've  
23 heard thus far from Mr. Webber, do you believe that the  
24 schedule for bringing something to a Special Town

[WITNESS PANEL: Pinello~Levesque]

1 Meeting on November 1st, as indicated in PB-4, can be  
2 met?

3 A. (Pinello) Yes.

4 Q. Now, you've stated on Pages 16 to 17 of your prefiled  
5 testimony that the SEC is "an excellent model for  
6 collecting information necessary [to review] some of  
7 the important issues, but omits a number of [others]."  
8 What types of important issues do you think the SEC  
9 process would omit or would not consider or look at?

10 A. (Pinello) The SEC has a very specific statutory  
11 responsibility, and that is to focus on the RSA 162-H,  
12 in terms of bringing energy and alternative energy  
13 facilities on line for the State of New Hampshire.  
14 That is a very specific charge that is different than  
15 the Planning Board. The Planning Board and the SEC  
16 have some areas that overlap and are -- that intersect.  
17 However, the Planning Board has responsibilities that  
18 include the entire community, where the SEC focuses on  
19 a particular site and the permitting and the licensure  
20 or the permitting of a particular energy facility.

21 Q. And, I think, again, your testimony says that the SEC  
22 process will "omit review of a number of other issues".  
23 And, I'd like to know what -- give me an example of  
24 what you mean by that. What issue do you think the SEC

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}



[WITNESS PANEL: Pinello~Levesque]

1 process would not review that would be reviewed by the  
2 Town?

3 Well, let me -- I'm going to withdraw  
4 that question. I'm going to ask you another question,  
5 Ms. Pinello. Will the SEC -- let's put it this way.  
6 If the Town were to assume jurisdiction over this  
7 Project, would the Town examine the Project's  
8 anticipated effects on aesthetics?

9 A. (Pinello) If the ordinance included that, yes. And,  
10 our site plan regulations have that.

11 Q. How about historic sites?

12 A. (Pinello) Yes.

13 Q. Air quality?

14 A. (Pinello) Yes.

15 Q. Water quality?

16 A. (Pinello) Yes.

17 Q. The natural environment?

18 A. (Pinello) Yes.

19 Q. Rare plants and natural communities?

20 A. (Pinello) Yes.

21 Q. Birds and bats?

22 A. (Pinello) Yes.

23 Q. Do you have expertise on the Planning Board to evaluate  
24 avian impacts of a wind project?

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) The Antrim Planning Board has authority to  
2 hire experts, and we've done that in the -- we have a  
3 history of that in the past. That, when there is a  
4 project that requires particular expertise, then that  
5 is permitted, the hiring of the expertise is permitted.

6 Q. Will the Ad Hoc Committee -- will the Ad Hoc Committee  
7 be recommending that the Town examine the Applicant's  
8 financial, technical and managerial capabilities to own  
9 and operate a renewable energy facility?

10 A. (Pinello) Our current zoning ordinances for other  
11 projects require financial disclosure in some way.  
12 And, the Ad Hoc Committee has considered, as well as  
13 the -- excuse me, the Board of Selectmen, regarding  
14 financial.

15 Q. So, it's your testimony that a town can review, can  
16 legitimately look at an applicant's financial,  
17 technical, and managerial capability?

18 A. (Pinello) As it pertains to a project in that we have  
19 bonding responsibilities in that.

20 Q. Now, on Page 14 of your prefiled testimony, you state  
21 that "Antrim has successfully used the ad hoc committee  
22 process in the past to deal with issues [like a]  
23 nuclear waste dump and a prison", is that correct?

24 A. (Pinello) Yes. Could you direct me to the page again,

[WITNESS PANEL: Pinello~Levesque]

1 ma'am.

2 Q. Page 14.

3 A. (Pinello) Yes.

4 Q. So, you agree that's your testimony, correct?

5 A. (Pinello) Yes. But I just want to be sure of the page  
6 and where it's located.

7 Q. Okay. Did either of those two ad hoc committees that  
8 you referenced in your testimony ever lead to the  
9 construction of the types of facilities that the  
10 committees were looking into?

11 A. (Pinello) In the case of the nuclear waste dump, the  
12 nuclear waste dump siting was selected to be at Yucca  
13 Mountain, rather than New Hampshire.

14 Q. Okay. So, your answer is "no"? That the two ad hoc  
15 committees that you mention in your testimony did not  
16 actually lead to the successful construction and  
17 operation of the facilities they were looking at?

18 A. (Pinello) However, other ad hoc committees have  
19 resulted in the successful construction.

20 Q. Okay. Do you believe it's fair to compare a proposal  
21 for a renewable energy project in New Hampshire to a  
22 nuclear waste dump?

23 A. (Pinello) There are components of it that are similar,  
24 in terms of how the Town responded. In that there were

[WITNESS PANEL: Pinello~Levesque]

1 technical issues that needed to be addressed, very  
2 specific technical issues, and testimony that needed to  
3 be gathered. So that they're, in the sense of a  
4 regulatory aspect, they are. They are not the same in  
5 scale.

6 Q. Ms. Pinello, in your prefiled testimony, at the top of  
7 Page 14, it says "If the process leads to a decision  
8 that industrial scale wind energy will be permitted in  
9 some form", and that it continues. By using the word  
10 "if", do you concede that it's possible that the Ad Hoc  
11 Committee could recommend prohibiting wind farms in the  
12 Rural Conservation District, which Antrim Wind has  
13 stated provides the only viable location for its  
14 facility in Antrim?

15 A. (Pinello) Could you repeat the question please.

16 Q. Page 4 [14?], at the top of Page 4 [14?] of your  
17 prefiled testimony says "If the process leads to a  
18 decision that industrial scale wind will be permitted  
19 in some form". By using the word "if" in that  
20 sentence, are you conceding that it's possible that the  
21 Ad Hoc Committee could make a recommendation that the  
22 -- that a wind energy facility not be --

23 A. (Pinello) That has not been the direction of the Ad Hoc  
24 Committee to this date.

[WITNESS PANEL: Pinello~Levesque]

1 Q. Is it possible that, that even if there were some  
2 ordinance amendments drafted and relating to wind  
3 energy facilities, and they were -- they were enacted,  
4 do you think it's possible they could be so stringent  
5 that an applicant might never be able to meet those  
6 conditions?

7 A. (Pinello) In the discussions of the Antrim Planning  
8 Board, it has been clear that the focus should be on  
9 permittable ordinance -- should focus on permitting,  
10 rather than obscuring or not permitting.

11 Q. But isn't it also true that, even if there were  
12 recommendations made by the Ad Hoc Committee, and the  
13 Planning Board decided that recommendations for a  
14 zoning ordinance change should go to the Selectmen, and  
15 the Selectmen put it to a town meeting, it's possible  
16 that those amendments might never be enacted, because  
17 the voters in the town could reject them or vote them  
18 down? That's true, isn't it?

19 A. (Pinello) I'm not able to predict the Antrim voters.

20 Q. It's possible, though, right? Anything's possible.  
21 You put something to a vote, people can vote "yes" or  
22 "no", correct?

23 A. (Pinello) I'm not able to predict the vote of the  
24 Antrim --

[WITNESS PANEL: Pinello~Levesque]

1 Q. I'm not asking you to predict. I'm saying that it's  
2 possible that a vote by -- at a Special Town Meeting  
3 could result in a situation that lands us exactly where  
4 we are right now, with the Town of Antrim having no  
5 ordinances and no regulations dealing with wind  
6 facilities?

7 A. (Pinello) It is possible.

8 Q. It is possible, okay. Do you believe that the Antrim  
9 Wind Project would be, either one of you could answer  
10 this, do you believe that the Project would be faced  
11 with undue delay if it has to wait for the various  
12 bodies within the Town of the Antrim to create an  
13 ordinance, and then wait for a vote either at a Special  
14 Town Meeting or a regular Town Meeting, and then wait  
15 to go through the review process that is set forth in  
16 that ordinance, do you believe that would be undue  
17 delay?

18 A. (Levesque) I do not. Currently, Antrim Wind could, in  
19 fact, you know, file an application with the Town. It  
20 would have to go through a variance process before the  
21 ZBA, because it's not an allowed use in that zone, but  
22 it has that opportunity today.

23 Q. And, by what standards would such an application be  
24 assessed?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) It would have to be essentially through the  
2 site plan review process for a major project.

3 Q. Now -- but I'm not going to go down this path, because  
4 you've already testified that your charge is going lead  
5 to something else, so that this scenario isn't possible  
6 right now, because you have been told that an ad hoc  
7 committee that you're supposed to be developing some  
8 regulations and some ordinances to deal with this  
9 issue, correct?

10 MR. LITTLE: I don't think it's  
11 appropriate for counsel to argue about a question -- an  
12 answer to a question that she asked.

13 MS. GEIGER: I'll withdraw the question,  
14 Mr. Little.

15 BY MS. GEIGER:

16 Q. Do you believe it's possible, either of I, for the  
17 Planning Board in Antrim to adopt generally applicable  
18 rules for wind facilities, when there's a specific wind  
19 proposal on the table right now from Antrim Wind  
20 Energy?

21 A. (Levesque) I suggest that there is not a proposal.  
22 There are some drawings, there are some discussions  
23 that have come forth from Antrim Wind. But we do not  
24 have a proposal in hand. So, you know, those drawings

[WITNESS PANEL: Pinello~Levesque]

1 that we've seen that are draft, we don't really know  
2 that they would, in fact, look like that, once a full  
3 application would be filed. We don't have them in  
4 hand.

5 Q. Have you read Mr. Kenworthy's prefiled testimony in  
6 this case?

7 A. (Levesque) Have I read it from the -- I have read it  
8 originally. I haven't read it originally.

9 Q. Okay. Thank you.

10 CHAIRMAN GETZ: Could I just interject?

11 When you say "an application", with whom? With the --

12 WITNESS LEVESQUE: We don't have an  
13 application before the Town of Antrim Planning Board for a  
14 project.

15 CHAIRMAN GETZ: But when you were  
16 talking about, just previously, about an application, you  
17 were talking to the Board?

18 WITNESS LEVESQUE: I was speaking  
19 relative to the Antrim Planning Board, yes.

20 BY MS. GEIGER:

21 Q. And, my question was, you say you don't have -- you  
22 don't have an application, I think everyone agrees  
23 that's the case. And, you're saying that you don't  
24 think that the Project is sufficiently defined at this



[WITNESS PANEL: Pinello~Levesque]

1 point for you to understand whether or not it would be  
2 appropriate to or whether or not it would be the  
3 Planning Board or the Ad Hoc Committee could adopt an  
4 ordinance -- could adopt an ordinance without regard to  
5 a specific plan, you're saying that specific plan  
6 doesn't exist?

7 A. (Levesque) I don't understand your question.

8 Q. I apologize for that.

9 A. (Levesque) But the plan does not exist -- the proposal  
10 does not exist at this time.

11 Q. And, I guess my question to you is, have you read  
12 Mr. Kenworthy's testimony in this docket?

13 A. (Levesque) I did originally, but it's been a while.

14 Q. Okay. And, so, would you agree with me that there is  
15 some information in there regarding this project?

16 A. (Levesque) Oh, yes.

17 MS. GEIGER: Okay. I have no further  
18 questions. Thank you.

19 CHAIRMAN GETZ: Okay. Thank you. Mr.  
20 Richardson.

21 BY MR. RICHARDSON:

22 Q. Ms. Pinello, in your testimony you indicated that you  
23 felt it was important for the Planning Board to  
24 evaluate the need for the project, is that right?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) Could you -- I don't understand the project  
2 -- I don't understand the question, excuse me.

3 Q. Well, you indicated in your testimony that you felt it  
4 was important to balance the need for the project  
5 against its impacts. Is that more or less correct?

6 A. (Pinello) Can you direct me to where you're saying that  
7 please?

8 Q. Well, do you remember making a statement like that? We  
9 can look at your testimony. But I want to know right  
10 now, do you remember --

11 A. (Pinello) I need to know the context, the context of  
12 that, sir.

13 Q. So, you can't recall whether you made that statement  
14 right now?

15 CHAIRMAN GETZ: Well, Mr. Richardson,  
16 I'm not sure if you're paraphrasing her conclusions or  
17 you're speaking to something that she said specifically.  
18 It would certainly if I could know what you're referring  
19 to.

20 MR. RICHARDSON: Okay.

21 BY MR. RICHARDSON:

22 Q. Let's look at Page 15, Line 15, of your testimony.

23 A. (Pinello) Page 15, Line 15?

24 Q. Yes. Yes.

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) Thank you.

2 Q. Let me know when you're there. Have you found it?

3 A. (Pinello) I'm reading it, sir.

4 Q. Okay. So, I believe it says "Thus, we have to pay  
5 particular attention to the balance between the  
6 environment and the need for renewable energy  
7 facilities." So, do you believe today that that's one  
8 of the things that you have to pay particular attention  
9 to when this Project is before the Planning Board?

10 A. (Pinello) I do believe that's a portion of the Planning  
11 Board's responsibility.

12 Q. But you said in your testimony "particular attention",  
13 suggesting that it was "particularly important"?

14 A. (Pinello) As are the welfare and the safety.

15 Q. Okay. And, one of the things you continue on is that  
16 "the process requires", you say further down, "In the  
17 end, the process requires a full cost-benefit analysis,  
18 weighing the expected benefits of a particular wind  
19 project against the expected costs of that project to  
20 the environment." Is that correct?

21 A. (Pinello) Yes.

22 Q. Okay. Now, you would agree that the Site Evaluation  
23 Committee can review the need for a new project?

24 A. (Pinello) That is -- the Site Evaluation Committee has

[WITNESS PANEL: Pinello~Levesque]

1 mandatory jurisdiction over 30 megawatts, has  
2 discretionary jurisdiction under 30 megawatts.

3 Q. That's right. And, part of, under RSA 162-H:1, part of  
4 the Site Evaluation Committee's charge is to maintain a  
5 balance between the environment and the need for energy  
6 -- new energy facilities in New Hampshire.

7 A. (Pinello) Yes.

8 Q. Does that reflect your understanding?

9 A. (Pinello) Yes.

10 Q. So, that's something the Committee can do. Now, what  
11 is the Planning Board's authority to evaluate the need  
12 for new energy facilities in New Hampshire?

13 A. (Pinello) There are documents within the Town of Antrim  
14 that specifically address that, and that would be our  
15 Master Plan. Our Master Plan has an "Energy" chapter  
16 in it to discuss that.

17 Q. Uh-huh. And, does that Master Plan author -- do you  
18 believe the Planning Board has statutory authority to  
19 review the need for a new project? Let me give you an  
20 example. Let's say Wendy's comes to town, and I don't  
21 believe there is a Wendy's in Antrim, but let's assume  
22 hypothetically there's already a McDonald's. Can you  
23 say, "jeez, you know, you meet all of the relevant  
24 criteria for the site on which you're located, but

[WITNESS PANEL: Pinello~Levesque]

1 we've already got one place in town that serves fast  
2 food, we're not going to allow another, even though  
3 it's a permitted use." Can a planning board do that?

4 A. (Pinello) The Planning Board's responsibility is to  
5 review applications set before that within the  
6 statutory requirements of that. And, to evaluate those  
7 based on the site -- the ordinances, and then, when an  
8 application is put before the Board, based on the site  
9 plan review.

10 Q. So, you look at the technical criteria. But do you  
11 know whether or not a Planning Board can evaluate a  
12 project based upon its need? Or the need for the new  
13 energy facility?

14 A. (Pinello) I don't know the answer to that question.

15 Q. Okay. Let me --

16 A. (Pinello) I'm not clear I understand your question.

17 MR. RICHARDSON: Okay. Well, let's look  
18 at a document, and this has been, if I understand  
19 correctly, this has been sent out to the parties. It's  
20 BOS Exhibit 13. And, that's a copy -- I'm not sure the  
21 Committee has copies.

22 MR. IACOPINO: The Committee does not.

23 MR. RICHARDSON: Okay. If you need more  
24 let me know.

[WITNESS PANEL: Pinello~Levesque]

1 (Atty. Richardson distributing  
2 documents.)

3 BY MR. RICHARDSON:

4 Q. So, you see it says "Grant of Power", in RSA 674:16.

5 And, that discusses what a zoning ordinance can do.

6 And, it looks like it can review, do you see 674:16,

7 I(a), "The height [and] number of stories...[and]

8 buildings and other structures", "lot sizes", are you

9 following me there?

10 A. (Pinello) Yes, I am.

11 Q. Okay. "Density of population", "location and use of  
12 buildings". But there doesn't appear, at least in this  
13 provision, to be any authority to evaluate the need for  
14 an energy facility, which you said was important to do?

15 A. (Pinello) I believe the Planning Board has  
16 responsibility to review applications placed before it,  
17 through its ordinances and its site plan regulations.

18 Q. Are you familiar with a planning board ever denying a  
19 project because it wasn't needed?

20 A. (Pinello) I have no specifics for what you're saying,  
21 sir, I don't believe.

22 Q. Okay. Well, you're aware that this Committee is  
23 statutorily charged to determine that a project will  
24 not unduly interfere with the orderly developments of

[WITNESS PANEL: Pinello~Levesque]

1 the region?

2 A. (Pinello) That is a portion of its charge.

3 Q. Okay. And, part of it is also to look at whether or  
4 not a project will have an unreasonable adverse effect  
5 on aesthetics, historic sites, air and water quality.  
6 That's another charge, right?

7 A. (Pinello) Yes.

8 Q. So, doesn't it sound like this Committee is  
9 specifically designed to weigh the impacts of a  
10 facility against its need?

11 A. (Pinello) That is part of its charge, yes.

12 Q. And, that was something that you felt was important to  
13 do, in your testimony?

14 A. (Pinello) I stated that in my testimony, yes.

15 Q. Okay. Are you aware of any reason why this Committee  
16 couldn't incorporate the views of the Planning Board on  
17 the Project into its decision?

18 A. (Pinello) I understand, from a correspondence, an  
19 e-mail correspondence I had with Attorney Iacopino, way  
20 earlier, I believe it was in March, maybe April, that  
21 the SEC has the ability to -- has preemptive ability  
22 for local ordinances, but it also, if local land use  
23 ordinances and regulations are in place, the SEC would  
24 consider those.

[WITNESS PANEL: Pinello~Levesque]

1 Q. So -- hold on one second. I'm sorry, I had marked an  
2 "Exhibit 12", a copy of the statute, but I've got the  
3 statute, so I'll show it to you. So, it's 162-H:16 I'd  
4 like to show you. And, in that statute -- I'll give it  
5 to you in a second so you've got it. Right here, where  
6 it's the letter (b), under Subparagraph IV.

7 (Atty. Richardson handing document to  
8 Witness Pinello.)

9 BY MR. RICHARDSON:

10 Q. So, if you see in that paragraph, after it says that  
11 the committee is charged to determine that the project  
12 "will not unduly interfere with the orderly development  
13 of the region", they have to make that determination,  
14 it says, "with due consideration having been given to  
15 the views of municipal and regional planning  
16 commissions and municipal governing bodies." So, my  
17 question is this: Is there any reason why, given that  
18 this Committee is statutorily charged with hearing the  
19 views of a planning board, why they couldn't  
20 incorporate those views into their decision?

21 A. (Pinello) The SEC has the authority to consider that or  
22 to reject that.

23 Q. That's right. And, they also have the authority to  
24 determine the need for the project, which is something



[WITNESS PANEL: Pinello~Levesque]

1 that we don't know if the Planning Board can do or not?

2 A. (Pinello) That's your -- that's your opinion, sir.

3 Q. Okay. But are you aware of a statutory provision that  
4 allows a planning board to evaluate need? Let me ask  
5 the question this way, because I'm interested in what  
6 you knew when you developed your testimony. Were you  
7 aware of a statutory provision that related to that  
8 when you prepared your testimony?

9 A. (Pinello) What I am aware of is that our Master Plan,  
10 and in the Master Plan process, the community is  
11 allowed -- is expected to set out expectations in the  
12 visioning section for the community, is allowed to  
13 envision its community.

14 Q. Okay.

15 A. And, in that, there is -- we can assess need for any  
16 number of aspects of our community.

17 Q. On Page 18, Line 19, of your testimony, you say "As you  
18 doubtless know, the procedures for making amendments to  
19 zoning ordinances are highly regulated by statute."

20 A. (Pinello) Just a minute. I'm going to ask you, --

21 Q. Okay.

22 A. (Pinello) -- can you tell me the page and line again?

23 Q. Page 18, Line 19. So, isn't it true that, in this  
24 highly regulated environment, the Planning Board needs

[WITNESS PANEL: Pinello~Levesque]

1 statutory authority. In other words, it's great to  
2 have things as a vision in your Master Plan, but you  
3 need the legal authority to do it. Is that true?

4 A. (Pinello) Yes.

5 Q. Okay. And, part of the problem here, if you look at  
6 another issue, I mean, for example, as I recall during  
7 the technical session, one of the concerns raised by  
8 the Planning Board was is whether or not the Applicants  
9 have technical capability to build this project. And,  
10 that's something that this Committee has specific  
11 authority to do, right?

12 A. (Pinello) Sir, you're -- there are two things. And, I  
13 would be glad to answer one question or the other, but  
14 there's two there that I --

15 Q. What my question relates to is, is that there are  
16 things that I understand from the Planning Board that  
17 are important to get done. And, I believe, for  
18 example, or would you agree that it's important to  
19 review the technical and financial capability of an  
20 Applicant? Do you agree with that?

21 A. (Pinello) There are certain projects, yes, where that's  
22 important.

23 Q. Okay. So, if, let's go back to the hypothetical about  
24 a fast food place, a McDonald's. An applicant comes

[WITNESS PANEL: Pinello~Levesque]

1 in. And, they've got a plan that meets all of the  
2 criteria under the zoning ordinance, under the site  
3 plan regs. Can you deny approval because the applicant  
4 is under capitalized? Is there legal authority to do  
5 that?

6 A. (Pinello) The Planning Board's legal authority only  
7 relates to the ordinances and to the site plan review.

8 Q. So, you have legal authority, and I believe you said  
9 this in response to a question from Ms. Geiger, to  
10 impose a performance bond, right?

11 A. (Pinello) Yes, sir.

12 Q. But there's no statutory authority to deny a project  
13 simply because the Planning Board believes that the  
14 Applicant doesn't have sufficient technical or  
15 financial resources to implement what's on the plan.  
16 Is that correct?

17 A. (Pinello) It would have to -- with hypothetical -- with  
18 a hypothetical example, I'm struggling to find where --  
19 there are cases where you need to have -- show that  
20 you're able to construct the project. You need to show  
21 bond.

22 Q. Uh-huh.

23 A. (Pinello) So, I'm trying to -- I'm not clear that your  
24 question --

[WITNESS PANEL: Pinello~Levesque]

1 Q. So, that the Planning Board's authority in this case  
2 would be to require a bond for the construction of the  
3 entire project?

4 A. (Pinello) You could require bonds for aspects of the  
5 projects, you could require bonds -- you could require  
6 performance review during different portions of the  
7 project. It would depend on how the ordinance was  
8 written.

9 Q. But precisely my point. There's no authority, except  
10 in this Committee, to review whether the Applicant has  
11 sufficient technical and financial resources to  
12 implement the project?

13 A. (Pinello) At this time, in the Town of Antrim?

14 Q. And, there's no statutory authority --

15 A. (Pinello) I'm asking you a question, sir.

16 Q. Okay.

17 A. (Pinello) I don't -- I'm trying to get --

18 Q. Let me back up a second.

19 A. (Pinello) It's hard for me to answer a question when --

20 Q. You do understand, because I skipped over this, that  
21 the Site Evaluation Committee has the authority to  
22 review the technical and financial resources of the  
23 Applicant? It's in the book right there in front of  
24 you.

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) No. I understand.

2 Q. And, we don't know, at least you don't know in your  
3 testimony, you don't state that, and I'm assuming you  
4 don't know now, that there is no authority for a  
5 planning board to evaluate the financial resources of  
6 an applicant?

7 A. (Pinello) At the -- with the present zoning ordinances?

8 Q. Under any zoning ordinances. Any zoning ordinances.

9 A. (Levesque) Mr. Richardson, as I understand it, correct  
10 me if I'm wrong, but I know that the SEC must, in fact,  
11 do those things if the project is over 30 megawatts.  
12 If it's under, it's really a decision that they can  
13 make whether or not to take jurisdiction. So, they're  
14 really not required to do that for projects that are  
15 less than 30 megawatts.

16 Q. But, I understood, from both your comments and  
17 Ms. Pinello's, at the technical session that we held,  
18 that reviewing the financial capability was an  
19 important thing to do. There were questions about the  
20 number of projects that they had implemented, do you  
21 remember that?

22 CHAIRMAN GETZ: Well, I don't want to  
23 get this into a debate about what the status of the law  
24 is. I don't think we're making any real progress here.

[WITNESS PANEL: Pinello~Levesque]

1 MR. RICHARDSON: I agree.

2 CHAIRMAN GETZ: It's becoming  
3 repetitive. So, let's move along.

4 MR. RICHARDSON: I'm just trying to get  
5 the applicants to acknowledge that that authority --

6 CHAIRMAN GETZ: I understand.

7 MR. RICHARDSON: -- or they're not at  
8 least aware of what that authority is, I'm not aware of  
9 it, in a planning board.

10 BY MR. RICHARDSON:

11 Q. You say in your testimony, on Page 7, Line 7, again,  
12 "the question is one of assessing the costs and  
13 benefits on a number of issues." And, then, you  
14 continue to say "I am also for the Town keeping local  
15 control of important planning issues." And, that, in  
16 your view, is essentially the issue before this  
17 Committee, is whether to do local control or whether to  
18 have the Committee evaluate the Project, right?

19 A. (Pinello) Yes, sir.

20 Q. That's what one of your -- your biggest concern was?

21 A. (Pinello) Yes, sir.

22 Q. You're aware, though, that the Site Evaluation  
23 Committee also consolidates state permits, right?

24 A. (Pinello) Yes.

[WITNESS PANEL: Pinello~Levesque]

1 Q. And, in fact, any state permit, were this Committee not  
2 to take jurisdiction, could be appealed separately, as  
3 opposed to just one appeal from the Committee's  
4 decision, is that your understanding?

5 A. (Pinello) It would, yes.

6 Q. Okay. So, the Wetlands Permit could be appealed, for  
7 example, and -- is that correct?

8 A. (Pinello) Yes.

9 Q. And, the Alteration of Terrain, are you familiar with  
10 that program?

11 A. (Pinello) Yes.

12 Q. Are you aware that, in 2009, I think there were -- let  
13 me check here, there were 43 appeals filed of wetlands  
14 and alteration and other environmental permits from  
15 DES. Did you know that?

16 A. (Pinello) I did not know the exact number.

17 MR. RICHARDSON: Okay. All right.  
18 Well, let me show you a document then. This has not been  
19 previously submitted.

20 I have premarked all these in PDF. This  
21 one's marked "BOS 16".

22 MR. PATNAUDE: "BOS" what?

23 MR. RICHARDSON: "BOS 16".

24 BY MR. RICHARDSON:

[WITNESS PANEL: Pinello~Levesque]

1 Q. This is a letter from Commissioner Burack. And, in it,  
2 in the bottom of the second paragraph, he says,  
3 concerning council appeals: "While I believe that  
4 Council members generally make a good faith attempt to  
5 establish the facts and to apply the law in cases  
6 brought before them, I also believe that it's fair to  
7 say that the DES environmental councils, taken as a  
8 whole, have not demonstrated a facility for processing  
9 the cases presented to them in a timely manner. As a  
10 result, many [of the] cases are not heard or decided  
11 within a reasonable [time period]." Do you think, if  
12 you were acting as a consultant, that would be  
13 something that would be important, would be getting a  
14 project reviewed, for example, Wetlands and Alteration  
15 of Terrain Permits in a timely manner?

16 A. (Pinello) Yes.

17 Q. And, hasn't the Legislature not only sought to  
18 consolidate town appeals, which have been the subject  
19 of lawsuits and appeals and trips to the court, but  
20 also state appeals?

21 A. (Pinello) Yes.

22 Q. Okay. And, if you look at the bottom of the next  
23 paragraph, it basically summarizes "In 27 active cases  
24 filed in 2009, only two decisions have been issued."



[WITNESS PANEL: Pinello~Levesque]

1 Don't you think it's unfair to make an applicant go  
2 through a process where a year later they may be only  
3 two out of 27 cases that have actually gone to a  
4 hearing or a decision? Those aren't very good odds,  
5 are they?

6 A. (Pinello) No. It wouldn't be, no.

7 Q. You agree that a project that's a permitted use, but is  
8 non-residential, that goes through site plan review, is  
9 that right?

10 A. (Pinello) Yes.

11 Q. So, why couldn't the Planning Board just go through and  
12 adopt site plan regulations to address this project,  
13 and make it a permitted use as had been proposed?

14 A. (Pinello) Thank you. Indeed, that is one of the things  
15 we're going to be considering. At the meeting on the  
16 16th, we discussed that. And, we have regulations,  
17 draft of regulations that are stand-alone, and a  
18 stand-alone checklist for utility scale wind to allow  
19 that to happen as a possibility.

20 Q. Okay. But isn't it true that even if you did that,  
21 site plan approval could get appealed, right, to the  
22 Superior Court or to the ZBA?

23 A. (Pinello) Yes.

24 Q. And, that's already happened with the met tower?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) Yes.

2 Q. Okay. And, whether or not a -- there would have to be  
3 height criteria for a project like this?

4 A. (Pinello) Yes.

5 Q. And, that might require a variance?

6 A. (Pinello) Well, it would depend on what the -- how the  
7 regulations and the ordinance were written.

8 Q. But, if we went through and we made it a permitted use,  
9 even if it exceeded the criteria in your site plan  
10 regulations, you'd need a variance for that, I assume,  
11 or some type of a waiver --

12 A. (Pinello) Well, if it didn't match a criteria, you  
13 would have to go, that's the process, yes.

14 Q. And, so, that could get appealed, right?

15 A. (Pinello) It could, if it was written in such a way  
16 that it didn't include height, yes.

17 Q. And, you'd also need a Wetlands Special Use Permit  
18 under the zoning ordinance, right, if you were to  
19 impact wetlands for construction of an access road?

20 A. (Pinello) If you went -- could you clarify the scenario  
21 that you're describing, sir?

22 Q. Well, I'm trying to figure out, I mean, essentially  
23 what it seems to me is, is that the one thing that a  
24 Planning Board cannot guarantee or the Town cannot

[WITNESS PANEL: Pinello~Levesque]

1 agree -- cannot give to these applicants is essentially  
2 freedom from a multiplicity of lawsuits and appeals  
3 through the various steps, site plan being one, special  
4 exception being another, if the ordinance provides for  
5 that, right?

6 A. (Pinello) Uh-huh.

7 Q. And, then, the current ordinance requires a Special Use  
8 Permit for impacts to wetlands, right?

9 A. (Pinello) Yes.

10 Q. And, that could be appealed?

11 A. (Pinello) Yes.

12 Q. And, then, as we see, the environmental permits issued  
13 by DES could all be separately appealed? So, we might  
14 be looking at six or seven lawsuits?

15 A. (Pinello) Okay. I believe you've asked a series of  
16 questions, and I'd like to be able to make a response  
17 that's --

18 Q. Go ahead.

19 A. (Pinello) There are a number of planning mechanisms  
20 that address citizens' rights to appeal and the issue  
21 of citizens' appeal. You have described a very -- an  
22 ordinance, Planning Board, ZBA. There is a portion of  
23 New Hampshire planning law that is fairly recent,  
24 compared to other planning law, and that is conditional

[WITNESS PANEL: Pinello~Levesque]

1 use. And, there are some examples where there are --  
2 you have a permitted use, you hear that, and then the  
3 appeal is directly to court, thereby reducing the  
4 amount of appeals that a project could go through.  
5 And, a community gets to decide some of those kinds of  
6 appeals, how that is. So that there are -- there are  
7 options within the planning menu, shall we say, that a  
8 community can select for projects. And, the Ad Hoc  
9 Committee and the Planning Board have discussed those.

10 Q. But, with this project, I mean, the options, if it  
11 doesn't go before the Site Evaluation Committee, the  
12 options or the menu, if it were, for someone wanting to  
13 appeal the project and stop it, is fairly extensive.

14 A. (Pinello) Sir, I'd like to point out that the SEC  
15 process also has for appeal.

16 Q. Yes, one appeal. They're all consolidated, right?

17 A. (Pinello) Yes. But, if you look at the record, the  
18 present record of the SEC, you will see that other  
19 aspects of the SEC process can be disagreed with, shall  
20 we say, and come back for discussion.

21 Q. I'm not taking any issue with your or Mr. Levesque's  
22 qualifications. I think they're actually pretty  
23 impressive. But I wanted to ask you a question about  
24 --

[WITNESS PANEL: Pinello~Levesque]

1 MR. RICHARDSON: I got my last exhibit  
2 in the wrong order here.

3 (Short pause.)

4 MR. RICHARDSON: This is Exhibit 10, BOS  
5 Exhibit 10, excuse me.

6 (Atty. Richardson distributing  
7 documents.)

8 BY MR. RICHARDSON:

9 Q. How long have you lived in town?

10 A. (Pinello) Who were you asking that of?

11 Q. Both of you.

12 A. (Pinello) I've lived in town 28 years.

13 Q. Okay. So, you'll see from an e-mail here, on Page 1 of  
14 this exhibit, that is a list, according to Galen  
15 Stearns, of the "top 10 taxpayers" in town?

16 A. (Pinello) Yes.

17 Q. Number 1 is "PSNH", I believe is a substation?

18 A. (Pinello) Yes.

19 Q. Do you know when was put in?

20 A. (Pinello) I don't know the exact date, sir.

21 Q. Was it before any of the members of the current  
22 Planning Board sat on the Board?

23 A. (Pinello) I believe the substation relates to Jackman  
24 Reservoir, which would have predated my existence.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay. So, it's pretty old. And, then, there's the  
2 "Maharishi", Number 2, "Global Development Fund". Do  
3 you know what that is?

4 A. (Pinello) Yes, I do.

5 MR. LITTLE: I'm not quite sure what the  
6 purpose of this is. I mean, --

7 CHAIRMAN GETZ: Where are we going with  
8 this, Mr. Richardson?

9 MR. RICHARDSON: I'm going over the  
10 projects that might have been reviewed by the Planning  
11 Board that would show whether or not the Board has  
12 experience evaluating projects. And, basically, this  
13 relates to the Planning Board's expertise to evaluate  
14 projects.

15 CHAIRMAN GETZ: And, the Planning Board  
16 as an institution, not the individuals who are members of  
17 the Planning Board?

18 MR. RICHARDSON: That's right. But  
19 these are my members here, so I'm asking them about their  
20 Board's experience.

21 BY MR. RICHARDSON:

22 Q. So, what was the Maharishi Global Development Fund?

23 A. (Pinello) It's interesting that you should bring that  
24 up, in relationship to the Planning Board and Ad Hoc

[WITNESS PANEL: Pinello~Levesque]

1 Committee. The Maharishi Global is part of the  
2 Maharishi Vedic, the transcendental --

3 (Court reporter interruption.)

4 WITNESS PINELLO: Oh, I'm sorry.

5 **CONTINUED BY THE WITNESS:**

6 A. (Pinello) -- the transcendental meditation group that  
7 is in town. And, they are the subsequent owners of the  
8 proposed private prison within the Town of Antrim.

9 BY MR. RICHARDSON:

10 Q. Right.

11 A. (Pinello) So, the Planning Board has dealt with this  
12 owner's -- has dealt with this property for all of its  
13 existence, and has dealt with the Maharishi Global  
14 Development Fund.

15 Q. And, that property is currently for sale, right?

16 A. (Pinello) Correct.

17 Q. And, it's not being used for anything?

18 A. (Pinello) I don't believe that's what the Maharishi  
19 Global would say.

20 Q. Okay. But what is it being used for today?

21 A. (Pinello) It is a international study institute, and a  
22 -- it is the global center for Maharishi  
23 communications.

24 Q. So, it's basically an educational facility, is that

[WITNESS PANEL: Pinello~Levesque]

1 right?

2 A. (Pinello) They are -- they have multiple aspects in  
3 town. Their responsibility to the global Maharishi  
4 community is that they are the communication center for  
5 the Maharishi community throughout the world.

6 Q. Okay. But what I'm trying to get at, and let me move  
7 on, because I don't want to belabor the point. Number  
8 3, "Frameworks", that's the third largest taxpayer,  
9 that's an auto lighting facility, is that right?

10 A. (Pinello) Yes. And, the Planning Board was involved in  
11 that facility.

12 Q. But that facility was built in the 1980's, right?

13 A. (Pinello) I think it's a little bit later than that.  
14 It's a much earlier property.

15 Q. Okay.

16 A. (Pinello) It is a 19th Century property, sir.

17 Q. Okay.

18 A. (Pinello) A 20th Century or 19th Century property.

19 Q. But it hasn't gone before the present Board?

20 A. (Pinello) This present Board? It certainly has gone  
21 before the Antrim Planning Board.

22 Q. Yes. Maybe a little bit later than the 1980's you  
23 think?

24 A. (Pinello) Yes. I attended those hearings.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}



[WITNESS PANEL: Pinello~Levesque]

1 Q. Yes. All right. Number 4, --

2 CHAIRMAN GETZ: Mr. Richardson, I'm  
3 really not seeing the value of going through this list.

4 MR. RICHARDSON: Okay. All right.

5 BY MR. RICHARDSON:

6 Q. Well, let me ask you one last question then. When we  
7 get to Number 5, "La Sala", you see there it's got an  
8 assessment of 1.1 million. And, isn't it true that  
9 part of that property is in current use?

10 A. (Pinello) I'd have to look at a tax map, sir.

11 Q. So, you don't know that, but it could be?

12 A. (Pinello) I would like to, when I look at property  
13 issues, I need to have a tax map and the card there to  
14 be able to understand it.

15 Q. But, in terms of --

16 CHAIRMAN GETZ: But it's fair to say  
17 whether you do or do not know something.

18 WITNESS PINELLO: Right. I don't know,  
19 yes. Okay. Yes.

20 CHAIRMAN GETZ: All right. Let's move  
21 along.

22 MR. RICHARDSON: Okay.

23 BY MR. RICHARDSON:

24 Q. Then, so, of all these properties, pretty much the

[WITNESS PANEL: Pinello~Levesque]

1 largest, in terms of its assessed value, is 7 million,  
2 is that right? The largest property in town is  
3 approximately 7 million in fair market value?

4 A. (Pinello) Yes.

5 Q. Okay. And, this project is going to be about what,  
6 five times, six times larger than that? They're going  
7 to spend about 50 million to build this, right?

8 A. (Pinello) Yes, sir. That's the figures that I've  
9 heard.

10 MR. RICHARDSON: Okay. Thank you.

11 CHAIRMAN GETZ: Mr. Mulholland.

12 MR. MULHOLLAND: Yes.

13 CHAIRMAN GETZ: Welcome.

14 MR. MULHOLLAND: Good morning.

15 CHAIRMAN GETZ: Are you -- we spoke  
16 earlier this morning about deferring Mr. Webber. But,  
17 since we have these witnesses, are you ready to ask them  
18 questions?

19 MR. MULHOLLAND: Yes. Yes. I only have  
20 --

21 CHAIRMAN GETZ: And, how much do you  
22 have? It's --

23 MR. MULHOLLAND: Like five minutes. I  
24 don't want to duplicate anything, in terms of coming late.

[WITNESS PANEL: Pinello~Levesque]

1 I'm Evan Mulholland, now appearing for Peter Roth, Counsel  
2 for the Public. Ms. Pinello, right?

3 WITNESS PINELLO: Yes.

4 MR. MULHOLLAND: All right.

5 BY MR. MULHOLLAND:

6 Q. The last couple Ad Hoc Committee meetings that you've  
7 had, the developer hasn't been in attendance, correct?

8 A. (Pinello) The developer was in attendance during the  
9 last Ad Hoc Committee meeting we had. It was a public  
10 input session.

11 Q. Do you intend to invite them to be a member of the Ad  
12 Hoc Committee?

13 A. (Pinello) The charge for the Committee does not include  
14 their membership.

15 Q. Why not?

16 A. (Pinello) The Board specifically, in our discussion,  
17 discussed that potential applicants were welcome to  
18 provide public comment, this is the Planning Board.  
19 But that serving on the Committee was not what the  
20 Planning Board had hoped was requesting. But they're  
21 welcome, they have been invited to attend and attended  
22 the meeting, a public input session on the 22nd.

23 Q. Will you continue to invite them to attend all of the  
24 Ad Hoc meetings?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) Yes. As well as the Planning Board meetings.

2 Q. Okay. That's good. I've read your schedule for  
3 drafting the ordinance, the Ad Hoc Committee's charge.

4 A. (Pinello) Uh-huh.

5 Q. When are you scheduled to finish the Ad Hoc Committee's  
6 draft?

7 A. (Pinello) I'm going to hand you a document that you may  
8 not have received, --

9 Q. Okay.

10 A. (Pinello) -- because you arrived late. And, then, I  
11 will give you a chance to look at that.

12 Q. So, it looks like, within July, you would get it to the  
13 Planning Board?

14 A. (Pinello) The Planning Board is meeting in a joint, I'm  
15 spoken about this earlier, but, since you weren't here,  
16 I'll tell you, the Ad Hoc Committee is meeting on the  
17 29th at our regular meeting. The 30th, there will be a  
18 work session with the Planning Board and the Ad Hoc  
19 Committee. And, at that time, we will go over the  
20 ordinance, the regulations, and the definitions, which  
21 have been prepared with the Ad Hoc Committee and the  
22 Planning Board's input.

23 Q. Okay. Is there any way you can shorten this schedule  
24 to get it before the -- to get it to Planning Board

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[WITNESS PANEL: Pinello~Levesque]

1 adoption any sooner?

2 A. (Pinello) Well, --

3 Q. Or, is this the -- this is the shortest possible?

4 A. (Pinello) This is the Planning Board and the -- the  
5 Planning Board adopted this. And, it was -- they had  
6 -- this is the third go-round of it, where we did do  
7 consolidation each time. So, based on our track  
8 record, I guess you could look at it and say "three  
9 times, maybe we could consolidated it a fourth." You  
10 know, it would depend on what would happen between, I  
11 guess, that July 1st and July 20th time. If those  
12 reviews came back quickly, and that happens, that might  
13 allow for things to happen sooner.

14 A. (Levesque) But, I mean, we, at the Planning Board  
15 meeting, when we adopted this, we spent at least a  
16 couple of hours on this schedule trying to shorten it  
17 as much as possible.

18 Q. Uh-huh.

19 A. (Levesque) And, as you pull out the calendar and look  
20 at the dates, and the interest in not doing all of the  
21 hearings during the summer, when a lot of people are  
22 away, we really felt that this was the most appropriate  
23 schedule to be able to get it done as quickly as  
24 possible and provide access to as many people in town

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[WITNESS PANEL: Pinello~Levesque]

1 as possible.

2 Q. This seems shorter than what was in your original  
3 testimony.

4 A. (Pinello) It is.

5 Q. Okay. Good. One question about something you were  
6 discussing with Attorney Richardson. Were you aware  
7 that in 2009 the SEC's statute was changed to eliminate  
8 the part where they have to look at need?

9 A. (Pinello) Say that again.

10 Q. The SEC's statute, 162-H:16, the part where it  
11 discusses that the SEC has to look at need was  
12 eliminated.

13 A. (Pinello) Yes. I understand that from a PowerPoint by  
14 Timothy Drew.

15 MR. MULHOLLAND: That's it. Thanks.

16 WITNESS PINELLO: Thank you.

17 CHAIRMAN GETZ: Questions from the  
18 Committee? Mr. Harrington.

19 MR. HARRINGTON: Yes. I guess I'll just  
20 ask these generally, unless I call on someone  
21 specifically, and whoever is most appropriate could  
22 answer.

23 BY MR. HARRINGTON:

24 Q. This would be for Ms. Pinello. On your testimony, on

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[WITNESS PANEL: Pinello~Levesque]

1 Page 15, this is just something I just can't find, on  
2 Page 15, starting on Line 14, where you talk about that  
3 "RSA 162-H:1 makes it clear that our regulations must  
4 create "an alternate permitting path"." Can you direct  
5 me to the section in 162-H:1 where that "alternate  
6 permitting path" shows up? I just don't see it in  
7 mine.

8 MR. HARRINGTON: Maybe someone, Mr.  
9 Iacopino knows, is familiar with that. Is that in that  
10 section?

11 MR. IACOPINO: I don't -- do you want me  
12 to answer your question? I don't think that's what she's  
13 saying. I don't think she's saying "162 has it." I think  
14 she's saying that "their committee is seeking an  
15 alternative path." That's the way I understood her  
16 testimony.

17 WITNESS PINELLO: Thank you, sir.

18 BY MR. HARRINGTON:

19 Q. Okay. Well, maybe then you could explain what you  
20 meant by that?

21 A. (Pinello) Yes. And, if you'd just let me pause for a  
22 minute to read this.

23 Q. Sure.

24 A. (Pinello) As I understand our responsibility as a

[WITNESS PANEL: Pinello~Levesque]

1 community, we, too, are responsible for providing for  
2 alternative energy within our community as well. And,  
3 if it is not the SEC, then it is appropriate and  
4 expected of a community to find ways to do that. And,  
5 that path needs to be clear and permissible. It can't  
6 be obstructionist in that sense.

7 Q. Okay. I thought the quotes you were referring to was a  
8 section of the law.

9 A. (Pinello) No.

10 Q. I wanted to clear that up.

11 A. (Pinello) Okay. Thank you.

12 Q. Again, this could be to either one. The prefiled  
13 testimony that's here, I wanted -- I'm trying to get  
14 this straight now. You say that it "represents the  
15 Planning Board". So, was there a vote taken by the  
16 Planning Board that said one or both of your  
17 testimonies is the official position of the Planning  
18 Board?

19 A. (Levesque) Yes. We had non-public session with  
20 counsel, where counsel presented this as a possibility  
21 for the Planning Board to adopt. And, --

22 Q. Excuse me. When you say "this", you mean the testimony  
23 that's been submitted today for both of you?

24 A. (Levesque) For both of us, yeah. And, on Page 4 of the



[WITNESS PANEL: Pinello~Levesque]

1 May 19th Planning Board Minutes, Page 4, there's some  
2 bullets down the bottom of that page, "Meeting recess  
3 for consultant with Legal Counsel." That's where the  
4 vote was taken.

5 Q. Okay. So, there was actually a vote there?

6 A. (Levesque) Yes. Yes.

7 Q. And, it was 6 to -- with one abstention?

8 A. (Levesque) Correct.

9 Q. Okay. As far as the ordinance itself, it appears, I  
10 guess, if it's going to be presented to the Planning  
11 Board in whole by the end of June, it must be  
12 substantially written now?

13 A. (Pinello) What's being prepared -- what has been  
14 prepared for the Planning Board is a ordinance, a model  
15 ordinance, that the Planning Board has had some input  
16 in, in terms of comment and ideas, they haven't typed  
17 it out themselves, and the regulations and the  
18 definitions, yes.

19 Q. Okay. So, I mean, it's basically mostly already  
20 written by somebody now --

21 A. (Pinello) By a member of the Ad Hoc Committee and  
22 members of the Ad Hoc Committee, yes.

23 Q. Now, I know we discussed -- this was discussed earlier  
24 about that there's statutes that allow the Planning

[WITNESS PANEL: Pinello~Levesque]

1 Board to hire outside experts to assist them in  
2 evaluation, and I assume that gets charged to the  
3 person wanting to build the project. What type of  
4 expertise was brought in in the writing of this  
5 ordinance?

6 A. (Pinello) Thank you. There are -- the Planning Board  
7 voted at its last meeting to seek from the Selectmen,  
8 and with John Robertson, as an Ex Officio at the  
9 Planning Board, voted in --

10 Q. Excuse me, John Robertson?

11 A. (Pinello) Is an Ex Officio -- Selectmen Ex Officio,  
12 excuse me.

13 Q. Okay.

14 A. (Pinello) Voted to hire consultants in four areas.  
15 And, Mr. Robblee will be going before the Selectmen for  
16 those, to use our budget -- line item budget for our  
17 planner, who is no longer employed, for these  
18 consultants. A planner, a professional planner, and  
19 then consultants in three areas, they may overlap, but  
20 the three areas are siting, sound, and setback.

21 Q. And, so, the way this would work then is the Planning  
22 Board goes to the Board of Selectmen and Board of  
23 Selectmen have to approve this?

24 A. (Pinello) As I understand it, the statute, because we

[WITNESS PANEL: Pinello~Levesque]

1 are asking to move, we have -- because we are asking  
2 for the planner salary to be disbursed for consultants,  
3 we would have to ask permission.

4 Q. And, given the fact that the Board of Selectmen has  
5 come here and stated that they want the SEC to take  
6 jurisdiction, which I assume means they don't want to  
7 bother with writing a ordinance, is it reasonable to  
8 think that they would not approve that request?

9 A. (Pinello) Well, I will tell you what I know from the  
10 Committee I serve. John Robertson serves on the  
11 Planning Board Ex Officio, and he spoke in favor of  
12 that. Eric Kenney serves on the Ad Hoc Committee as a  
13 representative of the Selectmen, and he spoke in favor  
14 of that.

15 Q. And, how many selectmen are there in the Town?

16 A. (Pinello) Three.

17 Q. So, you have a high degree, a fairly high degree of  
18 confidence that at least two would be voting in favor  
19 of it?

20 A. (Pinello) Or so they said.

21 Q. Okay. And, the idea of these experts would be then --  
22 I guess I'm trying to get -- the point I'm trying to  
23 get at is, once the ordinance is written, you can bring  
24 in experts to evaluate how the applicant is applying

[WITNESS PANEL: Pinello~Levesque]

1 with the ordinance. But I was questioning as what type  
2 of expertise was used in writing the ordinance itself?  
3 And, it appears you haven't hired anybody yet. So, how  
4 are you making the technical decisions as to what type  
5 of an ordinance is needed to regulate a wind project  
6 such as this?

7 A. (Pinello) Okay. Our process is outlined in our minutes  
8 that, at your leisure, you can read. But, to summarize  
9 that, one, we went to other ordinances that are  
10 approved, and that we looked at Maine. And, quite  
11 frankly, the ordinance that we were looking at, we  
12 started with the Maine Model Ordinance, and then went  
13 to specific towns in Maine. And, we used the Bourne,  
14 Massachusetts one. So, we looked at those to -- in  
15 terms of planning. So, that would be in terms of  
16 ordinance wording, in terms of site plan regulation and  
17 that aspect. So, what we did was, what we as citizens  
18 know and are familiar with in terms of the planning  
19 process. We also, the Ad Hoc Committee and many  
20 members of the Planning Board, attended the New England  
21 -- excuse me, New England Energy Education Program that  
22 was in Marlborough, Massachusetts. And, each of us  
23 attended particular sessions, where we had questions  
24 and addressed those. So that, not only did we attend

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1 those sessions, but acquired the names of people for  
2 contact. And, that's to be able to get that expertise.  
3 So that the part that the Ad Hoc Committee has crafted  
4 is those pieces that planning -- local planning people  
5 know how to do. The places that we're asking for  
6 expertise is in those places that we don't have that  
7 expertise.

8 Q. But, I guess, maybe I'm misunderstanding, it sounds  
9 like to me, before you hire these outside experts, that  
10 you would have already written the ordinance? Or is it  
11 --

12 A. (Pinello) Those pieces are not in it.

13 Q. Okay.

14 A. (Pinello) Those pieces --

15 Q. So, that's going to go on --

16 A. (Pinello) Yes.

17 Q. -- as they bring those people on. And, when do you  
18 anticipate hiring those? When is the vote of the  
19 Selectmen?

20 A. (Pinello) The vote of the Selectmen, I believe, is  
21 tonight.

22 Q. Oh. Okay.

23 A. (Pinello) And, scopes of work have been received from  
24 it.

[WITNESS PANEL: Pinello~Levesque]

1 Q. And, maybe this is a little redundant, but also, as  
2 part of your schedule, you're talking about a Special  
3 Town Meeting at the end of October, the beginning of  
4 November. Again, this would require an affirmative  
5 vote on the part of the Selectmen, otherwise it would  
6 have to wait until the March Town Meeting?

7 A. (Pinello) Right.

8 A. (Levesque) Yes.

9 Q. Have you had discussions with the Selectmen on whether  
10 they would be voting in favor of a Special Town  
11 Meeting?

12 A. (Pinello) Yes. And, that has been discussed and has  
13 been published in the newspapers, and the selectmen  
14 have said that that would go ahead, so, we believe,  
15 providing the ordinance is reasonable and the Planning  
16 Board has passed it.

17 MR. HARRINGTON: Okay. That's all I  
18 had. Thank you.

19 CHAIRMAN GETZ: Commissioner Bald.

20 BY CMSR. BALD:

21 Q. Ms. Pinello, I have -- you've seen the minutes of the  
22 19th?

23 A. (Pinello) Which month?

24 Q. May 19th, sorry.

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) Okay. Thank you. Just a minute, let me get  
2 them. Okay.

3 Q. And, I'm just a little confused. And, maybe it's just  
4 the way I'm reading this, but it says that the Chair  
5 stated that "he understood the presence of the attorney  
6 and the fund raising. [And], he had actually voted for  
7 legal counsel...but he was not aware [that any] work  
8 had been done." And, then, the next he says "he was  
9 taken by surprise when testimonials" -- "the  
10 testimonies showed up Thursday morning. He questioned  
11 why he did not know about it."

12 Is this accurate, that he did not know  
13 about it?

14 A. (Levesque) Commissioner, may I answer that?

15 Q. Either one.

16 A. (Pinello) Go ahead.

17 A. (Levesque) The timing of what went on really was  
18 triggered by the decision, the ruling by the SEC to lay  
19 out this hearing schedule, and, more importantly, that  
20 it was granting the Planning Board the intervenor  
21 status. We didn't know that, and this is off of the  
22 top of my head, until what, May 6th, if I'm not  
23 mistaken, Mr. Iacopino. And, Attorney Little did not  
24 do any work until that date happened, where we actually

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[WITNESS PANEL: Pinello~Levesque]

1 knew our status, that, in fact, he was needed before  
2 this body. And, between that time and the time when  
3 this meeting occurred, there was no other Planning  
4 Board meeting. So, our attorney, having been given a  
5 charge by the Planning Board when we did hire him to do  
6 this work for us, then got into action and he made a  
7 decision that the testimony from the two of us was  
8 going to be the lead body of work that would come  
9 before the SEC. But there was not a Planning Board  
10 meeting from May 6th until the 19th. So, the 19th was  
11 the first time where these materials could be put  
12 forth. They were in draft form like the week before  
13 that. I got them in kind of the final draft form I  
14 think the day before this. And, I made every effort to  
15 make sure our attorney got them to the full Planning  
16 Board on the morning of the date of our meeting, and  
17 that's the first date they were available. And, so,  
18 they were made available via e-mail that day, then we  
19 had the Planning Board meeting that night to decide  
20 whether or not the testimony from the two of us should,  
21 in fact, be submitted.

22 Q. So, it was Mr. Little that made the decision that the  
23 two of you, and not any other member of the Planning  
24 Board, would offer this testimony?

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[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) We would say an initial decision, because  
2 what he brought before the Planning Board on May 19th  
3 was essentially a recommendation that this is how we  
4 proceed. The Planning Board at that time could have  
5 said "no, we disagree with that, and we want to do  
6 this." In the end, after discussion, they agreed that  
7 that was a proper way to move forward and adopted it.

8 Q. Why was the Chair not involved?

9 A. (Levesque) In what part of it?

10 Q. Did you --

11 A. (Levesque) Well, the Chair -- the Chair --

12 Q. Let me ask you the question.

13 A. (Levesque) Excuse me.

14 Q. I understand that May 6th you know where you're going,  
15 so you start to prepare your information. Did you call  
16 the Chair and say "I'm going to prepare testimony, and  
17 I'll probably have it at the meeting of the 19th"?

18 A. (Levesque) Several weeks before May 6th, I don't have  
19 the date handy, we had a noticed session with our  
20 attorney for an initial discussion after the Planning  
21 Board had made a decision to have counsel for this  
22 process. And, at that meeting, the Planning Board was  
23 invited, this was essentially a counsel meeting,  
24 non-public session. And, only three of the Planning

[WITNESS PANEL: Pinello~Levesque]

1 Board members showed up, the two of us and another  
2 Planning Board member. And, the Chair chose not to  
3 show up. And, he made it clear verbally to me that he  
4 was leaving it to us to work through this, because he  
5 was not interested in participating at this time  
6 because of his time schedule and so forth. So, that  
7 probably is why I did not make an effort before the  
8 19th to make sure that these materials got to him and  
9 to the rest of the Planning Board. They were in a  
10 draft form anyways, but he showed -- he described to me  
11 on several occasions that he just wasn't interested in  
12 spending the time on those materials. It had to go  
13 before the Planning Board, and it did on the 19th of  
14 May.

15 Q. Right. But I guess that the minutes are reflecting  
16 that he, numerous times, says "I didn't know anything  
17 about this. Why am I kind of" -- he just seems  
18 surprised to me?

19 A. (Levesque) Surprised me as well, because he had shown  
20 kind of a lack of interest in being in the loop on  
21 those materials.

22 Q. I don't want to go too long, but who was in the loop on  
23 the materials? Just the two? Were there other members  
24 of the Planning Board?

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1 A. (Levesque) This is what I know. I know only that I  
2 knew that my testimony was moving forward. I knew of  
3 Martha's as well. And, beyond that, the Sunday before  
4 the meeting on the 19th, whatever date that was, I got  
5 a call from the Vice Chair of the Planning Board, Jesse  
6 Lazar, asking what was happening, and I described to  
7 him what I knew at that time. So, I know the three of  
8 us knew, but that's what I know.

9 Q. One more question -- or, two more questions. You said  
10 that three of the members of the Planning Board met  
11 with your attorney?

12 A. (Witness Levesque nodding in the affirmative).

13 Q. Is that a quorum?

14 A. (Levesque) No. No, it's not.

15 CMSR. BALD: Okay. Thank you.

16 CHAIRMAN GETZ: Other questions?

17 Director Morin.

18 DIR. MORIN: Good afternoon.

19 BY DIR. MORIN:

20 Q. I'd like to ask both of you, in terms of this hiring,  
21 you are recommending hiring expertise for a  
22 professional planner and in the three technical areas  
23 for development of the ordinance?

24 A. (Pinello) In the ordinance, there would be, and this is

[WITNESS PANEL: Pinello~Levesque]

1 what we're trying to sort out and what we need for the  
2 Planning Board, to sort out where does it land. Does  
3 it land in regulations or does it land in the  
4 ordinance? Setback, siting, and sound.

5 Q. So, your answer is "yes"? You're hiring these  
6 expertise to help you with the ordinance? Yes?

7 A. (Pinello) Yes.

8 Q. Okay. And, you are proposing to the Board of Selectmen  
9 to use money from the vacant planning position,  
10 correct?

11 A. (Pinello) Yes.

12 Q. So, you feel you need expertise to develop the  
13 ordinance, correct?

14 A. (Pinello) Yes.

15 Q. If money is taken away from the planner's salary, will  
16 that delay hiring the Town Planner?

17 A. (Levesque) Want me to speak to that?

18 A. (Pinello) You go ahead, Yes.

19 Q. Either one.

20 A. (Pinello) Yes. Go ahead.

21 A. (Levesque) The Planning Board made a decision that it,  
22 in fact, wanted to fill that position after the planner  
23 stepped down from the position. And, we went to the  
24 Board of Selectmen and requested that, in fact, that

[WITNESS PANEL: Pinello~Levesque]

1 position be filled. I believe, under RSA 673:16, we  
2 have the authority to hire a planner or consultants.  
3 The Planning Board traditionally hasn't done that in  
4 our town. So, we went to the Board of Selectmen to ask  
5 that, in fact, we get together and work to fill that  
6 position, get a notice out, in fact, do interviews,  
7 *etcetera*, and they denied that request to fill that  
8 position. So, --

9 Q. Do you understand their reason? What was their reason?

10 A. (Levesque) Their reason is that there's not enough work  
11 for that individual, in their opinion.

12 Q. And, --

13 A. (Levesque) So, can I continue?

14 Q. Yes. Yes.

15 A. (Levesque) So, we went back, after that decision, at  
16 our last Planning Board meeting a week ago Thursday, we  
17 went back to square zero to really understand better  
18 what we actually need at the present time. And, that's  
19 where we came up with a list of both consultants, doing  
20 something with Southwest Regional Planning and probably  
21 OEP, to fill our needs for the time being. That's  
22 where we came up with the plan to do that, and all  
23 agreed that that's really what we wanted to do.

24 Q. Okay. And, in terms of your -- that you presented the

[WITNESS PANEL: Pinello~Levesque]

1 schedule on presenting the ordinance, and then hiring  
2 this expertise, I assume there is some process and  
3 procurement process, in accordance with your town  
4 regulations and certainly state statute that has to be  
5 followed, correct?

6 A. (Pinello) Uh-huh.

7 Q. How will that affect your schedule in developing the  
8 ordinance?

9 A. (Pinello) So far, the consultants that the Chairman  
10 asked me to contact people and to get scope of work for  
11 those, so far, those have -- I have one waiting, I may  
12 have more when I get home. It shouldn't, because of  
13 the way they're coming in, the way the level of funding  
14 that they are, it should be fine within our guidelines.  
15 I don't see it as a problem.

16 Q. So, you've not done an RFP with a set request for  
17 either a proposal or qualifications in which you put it  
18 out to bid and fairly evaluate consultants. You're  
19 picking individuals to ask for specific scopes of work?

20 A. (Pinello) We're picking -- we did not go the RFP route.  
21 We decided to go the sole source route.

22 Q. So, you're going sole source?

23 A. (Pinello) Yes.

24 Q. Okay. I just have a few more questions on this. If

[WITNESS PANEL: Pinello~Levesque]

1           you feel you need expertise to develop the ordinance,  
2           do you feel you are going to need expertise if an  
3           application is filed with the Town for this project, to  
4           evaluate fully, in accordance with let's assume there's  
5           an ordinance passed, do you feel you will need  
6           expertise to evaluate that project?

7   A.   (Pinello) Yes.

8   Q.   Okay.  And, especially without a town planner?

9   A.   (Pinello) Yes.

10  Q.   Okay.  And, you agree that these projects are highly  
11       complex industrial wind facilities that, even at our  
12       level, needs certain expertise?

13  A.   (Pinello) Yes.

14  Q.   Okay.  Can I ask you, if you continue with your  
15       ordinance, and it is passed, would you expect, and SEC  
16       takes jurisdiction, would you expect that that  
17       consideration of complying with that ordinance could be  
18       addressed by the SEC process?

19  A.   (Pinello) It could, if the SEC chose to include that.  
20       It is not mandated to do that.

21  Q.   And, also, within the SEC process, you two could, you  
22       know, become -- could apply as intervenors in the  
23       process as well?

24  A.   (Pinello) The process allows for that.

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[WITNESS PANEL: Pinello~Levesque]

1 DIR. MORIN: Thank you. That's all.

2 CHAIRMAN GETZ: Director Scott.

3 BY DIR. SCOTT:

4 Q. For either panel member. In the event that your  
5 ordinance didn't pass, what's your proposed course of  
6 action?

7 A. (Pinello) The Planning Board has discussed and the Ad  
8 Hoc Committee has discussed adopting site plan  
9 regulations within -- that address many of the issues  
10 that would be in an ordinance, as well as in  
11 regulations, to reflect the community concerns and  
12 standards in that. So, those are -- the site plan  
13 regulations are adopted with a hearing by the Planning  
14 Board and then a vote of the Planning Board.

15 Q. And, what time frame would that happen in that event?

16 A. (Pinello) That would happen in -- when we talked about  
17 it, we talked about it in the July meetings. And, it  
18 could happen. We even talked about a scenario of  
19 adopting site plan regulations, and then having the  
20 ordinance adopt it. And, then, if we needed to,  
21 amending the site plan regulations afterwards.

22 DIR. SCOTT: Okay.

23 CHAIRMAN GETZ: Anyone else?

24 Commissioner Ignatius.



[WITNESS PANEL: Pinello~Levesque]

1 CMSR. IGNATIUS: Thank you. Good  
2 afternoon, Ms. Pinello and Mr. Levesque.

3 BY CMSR. IGNATIUS:

4 Q. I was looking at the supplemental information that was  
5 part of Ms. Pinello's testimony, section Exhibit G.  
6 And, in the minutes of the Ad Hoc Committee of May  
7 31st, and that's pages 20, 21, and 22, there are a  
8 number of helpful steps that are to be taken and  
9 description of upcoming dates. I just wanted to  
10 double-check on a couple of them. It describes, on  
11 Page 20, that the "SWRPC", Southwest Regional Planning  
12 Commission, "would be consulted" -- "should be  
13 consulted when a draft is ready." And, you said you  
14 have a draft. Has that already been shared with the  
15 Planning Commission?

16 A. (Pinello) We've had a number of e-mails with Timothy  
17 Murray at the Southwest Regional Planning. And, what  
18 they have agreed to do, in terms of the schedule, is,  
19 after our meeting on the 30th, they will review. They  
20 wanted the Planning Board and the Ad Hoc Committee to  
21 work together, and then they would look at that. So,  
22 we've -- they have agreed with that.

23 Q. All right. Thank you. Then, on Page 21, under  
24 Section 9, doesn't seem to be a Section 8, it talks

[WITNESS PANEL: Pinello~Levesque]

1 about a couple of different sessions coming up. (b)  
2 was this "Wind Energy Education Project" that you said  
3 some people have attended. Do you know if the  
4 attendees are pretty close to who you expected in that  
5 listing there being --

6 A. (Pinello) Everyone attended, with the exception of Mike  
7 Tatro, who is a Planning Board alternate.

8 Q. And, in a simple sentence, I'm not asking for a summary  
9 of the day, but is there a sort of main message of that  
10 education conference? Would you characterize it as --  
11 or how would you characterize it?

12 A. (Pinello) Highly informative. And, let me pause. I  
13 think the areas where we really came back and the areas  
14 of expertise that we focused on were noise, setback,  
15 and siting, that those were the areas, listening to  
16 what we heard. There was a group who also attended the  
17 interconnection portion of that, to really better  
18 understand that. And, that was a highly useful session  
19 for committee members, because that's an area where we  
20 certainly did not have a lot of knowledge, nor is there  
21 a lot really published.

22 Q. Did the conference speakers seem to have a bent in  
23 favor of wind or opposed to wind or a mix of the two?

24 A. (Pinello) Mix of the two.

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[WITNESS PANEL: Pinello~Levesque]

1 Q. And, are the people listed, are they the members of the  
2 Ad Hoc Committee?

3 A. (Pinello) I could go through that for you to help you.  
4 Myself, as a member of the Planning Board and the Ad  
5 Hoc Committee; John Robertson, as a Selectmen Ex  
6 Officio to the Planning Board; Andrew Robblee as the  
7 Chairman of the Planning Board; David Dubois is a  
8 member of the Planning Board and the Ad Hoc Committee;  
9 Barbara Gard and Mary Allen are members of the Ad Hoc  
10 Committee.

11 Q. Are there members of the Ad Hoc Committee who were not  
12 in attendance?

13 A. (Pinello) Mr. Edwards and Mr. Tenney.

14 Q. Then, the Item (d) says that there will be a "public  
15 input session June 22nd". Did that -- was that held?

16 A. (Pinello) Yes.

17 Q. What kind of attendance did you have?

18 A. (Pinello) We had, I believe, it's 25 members of the  
19 public or greater.

20 Q. And, are there minutes of that session?

21 A. (Pinello) There are not minutes attached, but there are  
22 minutes of that session.

23 Q. So, someone was recording the comments or questions?

24 A. (Pinello) Yes. There were two people. And, it was

[WITNESS PANEL: Pinello~Levesque]

1 taped.

2 Q. Okay. All right. There's also a reference, and I  
3 can't find it right now, of an all-day public session  
4 in August, public hearing, the public comment session  
5 on August 22nd?

6 A. (Pinello) That, on August 27th, there would be -- that  
7 would be the first public hearing. One of the concerns  
8 that we had, in terms of the timely moving of this  
9 ordinance, is to make sure that there's appropriate  
10 time for public input. The 27th is the end of August,  
11 when our school districts are back in session. So, we  
12 felt that there would be people back for that. And,  
13 having it all day, this was the suggestion of Andrew  
14 Robblee, our Planning Board Chair, in order to be able  
15 to have everyone make the presentations, the comments  
16 that they wanted, having an all-day Saturday session  
17 would welcome a number of people. And, then, having  
18 the second hearing being an evening hearing, would  
19 allow for people in our community, many people work on  
20 Saturday and Sunday.

21 Q. All right. And, that was Page 23 of your Exhibit G.  
22 You're right, it does say the "27th", not the "22nd".

23 A. (Pinello) That's okay. That's fine.

24 Q. And, that we also see, in your plan of work, Planning

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[WITNESS PANEL: Pinello~Levesque]

1 Board 4?

2 A. (Pinello) Oh, I'm sorry. You were looking -- yes.  
3 There's an up-to-date one as it was amended at our last  
4 Planning Board meeting.

5 Q. You heard Mr. Webber's testimony this morning, in which  
6 he felt that the "Ad Hoc Committee was not working  
7 constructively" to get to a resolution and was  
8 "reinventing the wheel". What's your reaction, either  
9 of you, to that statement?

10 A. (Levesque) You're the Chair of the Ad Hoc Committee, so  
11 --

12 A. (Pinello) I disagree with that. This is a group of  
13 people who have agreed to meet on a regular basis, with  
14 assignments. They not only have reading assignments,  
15 but they have task assignments, action items. And, if  
16 you look through the minutes, you can see that. This  
17 group has worked week after week, putting many, many  
18 hours in reviewing this, and really being clear about  
19 what we do have the technical expertise for and what we  
20 don't, which is an important aspect.

21 We also have been able to meet every  
22 deadline that we set for ourselves, or that the  
23 Planning Board actually has set for us. So that, on  
24 the meeting of the 16th, we had hard copy of a

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1 ordinance, regulations, not only -- we had two sets of  
2 regulations. One that would be woven into our current  
3 site plan, which is a considerable effort to go through  
4 that, but then also a stand-alone. And, at that time,  
5 the Planning Board chose to go with the stand-alone  
6 regulations. The Committee has produced the -- this  
7 map was another product of the Committee.

8 So, I just don't characterize that to be  
9 the case at all. Mr. Webber has not attended any of  
10 the morning sessions of the Ad Hoc Committee. He did  
11 attend the public session. However, I will say he was  
12 confused that it was a public -- he thought it was --  
13 it's a public input session, we wanted to hear from the  
14 public. And, once he understood that, he was able to  
15 give us what he felt was important. But, before that,  
16 there was a misunderstanding that he thought we were  
17 going to be presenting.

18 Q. The exhibit that I think you produced, Planning Board  
19 3, --

20 A. (Pinello) Uh-huh.

21 Q. -- the summary of actions of the Planning Board between  
22 March and the middle of May.

23 A. (Pinello) Yes.

24 Q. I wanted to ask you about some of the votes. The whole

[WITNESS PANEL: Pinello~Levesque]

1 first page is on actions taken on March 17th, 2011.  
2 And, halfway down the page it goes from votes that are  
3 "all in favor", some "all opposed", then you get some  
4 "4 to 3", "4 to 2", "4 to 3". And, then it changes,  
5 and it suddenly says "4 members present" in the far  
6 right column for the rest of that page. What is going  
7 on there?

8 A. (Levesque) Two of the members of the Board who were  
9 sitting previous to the election chose to leave the  
10 meeting at that time. I believe we had six members  
11 present to start. So, that left four, which is our  
12 quorum.

13 Q. I hope you had seven to start, because you've got some  
14 "4 to 3" votes. But --

15 A. (Pinello) Yes.

16 A. (Levesque) Yes, we did.

17 Q. So, why did the members choose to leave?

18 A. (Levesque) You would have to ask them.

19 Q. Were you there?

20 A. (Levesque) Yes.

21 Q. What was your impression of why they left?

22 A. (Levesque) They were voting against, you know, these  
23 motions, and they were not pleased. So, they left.

24 Q. So, the reason I'm asking is that I think the

[WITNESS PANEL: Pinello~Levesque]

1 representation was made that many of these votes were  
2 "unanimous". And, my reading of this and your  
3 description is "they're unanimous after the opposition  
4 leaves the room"?

5 A. (Pinello) Ma'am, I meant "unanimous" across -- when you  
6 look at the entire pan of time.

7 A. (Levesque) On the back side as well. Have you looked  
8 at the back side?

9 A. (Pinello) So, what I was referring to is, there is --  
10 certainly, there is a 4-3 split within the Board. But,  
11 when you step away from the SEC question, there is  
12 unani -- unanimity in the Board decision. So that you  
13 follow through, you can see, and I also bring this  
14 forward as an example, that the Board is continuing to  
15 vote, continuing to have a quorum, continuing to  
16 function. But there is -- there is no doubt, there is  
17 a source of disagreement, and it is over the SEC, and  
18 it is in a simple majority.

19 Q. In both of your written prefiled testimonies, you make  
20 references, and I'll give you page numbers, references  
21 to a "need for an ordinance" or that "an ordinance is  
22 required" for this project. And, Ms. Pinello, on Page  
23 14, that's in Planning Board 1, and, Mr. Levesque, on  
24 Page 9, that's Planning Board 2. And, I don't want to



[WITNESS PANEL: Pinello~Levesque]

1 parse words, so I just want to get a really clear sense  
2 from you.

3 Ms. Pinello, do you believe that an  
4 ordinance is required in order to be able to vote up or  
5 down on an industrial wind facility or you mean an  
6 ordinance is required in order to adequately address  
7 the issues that a facility of that type would bring to  
8 bear?

9 A. (Pinello) There are two. Some of it is both of that.  
10 One, the community has felt very strongly that there  
11 was a need to vote. When I was running for office,  
12 people repeatedly said that to me, and I believe that's  
13 the will of the community. Second off, is I understand  
14 our responsibilities as a Planning Board, when there is  
15 a change in land use and a need for a change in land  
16 use, it is our responsibility to address that. There  
17 are additional, in this particular case, there are  
18 additional regulatory aspects of that. But, to be able  
19 to address the concerns and the needs of our community  
20 within our statute, as a Planning Board, we have a  
21 responsibility to address that.

22 Q. Mr. Levesque, any thoughts on that question?

23 A. (Levesque) I mean, I really agree. As I said earlier,  
24 Eolian or any company could come in tomorrow and file

[WITNESS PANEL: Pinello~Levesque]

1 an application. And, we do have a process where they  
2 could go to the ZBA, get a variance, because the zone  
3 does not allow that use currently, and that project  
4 could move forward under the site plan review process  
5 that we now have in existence. However, that site plan  
6 review process is inadequate for this kind of  
7 development, hence our interest in developing a  
8 complete, comprehensive ordinance and set of  
9 regulations for this kind of development.

10 Q. I think the last area I wanted to ask about is the  
11 intention to bring on some consulting help. And, I got  
12 a little bit lost. Are you going forward for one  
13 planning consultant who will address the three areas  
14 you mentioned or are you going for numerous  
15 consultants?

16 A. (Pinello) Numerous consultants. I would qualify that  
17 to say "four or under".

18 Q. Okay. And, you've identified potential consultants  
19 through what mechanism? Not an RFP, but what did you  
20 do to identify people?

21 A. (Pinello) Okay. At the Planning Board meeting, we  
22 discussed various consultants. For a planner, there  
23 was unanimity from the Planning Assistant to the  
24 Planning Board of a particular person to do that. For

[WITNESS PANEL: Pinello~Levesque]

1 the other consultants, there was unanimity in terms of  
2 a person in terms of siting. And, then, for the  
3 others, the Chairman of the Board, we discussed it, and  
4 the Chairman of the Board directed that I speak with  
5 Princeton Light Company, to be able to talk -- in  
6 Princeton, Massachusetts, to be able to talk with them,  
7 as well as a consultant in Peterborough, New Hampshire.  
8 And, I have now sent an e-mail to Mr. Robblee for  
9 direction as to where else, to get those directions  
10 from the Board. So that it was the Planning Board who  
11 decided where those consultants would come from.

12 Q. In your review of the ones that have been identified to  
13 consider retaining, I guess, is that a fair way to put  
14 it at this point?

15 A. (Pinello) Uh-huh. Yes.

16 Q. Do they appear to come with experience involving wind  
17 facilities?

18 A. (Pinello) They all do. Yes. That was the intent.

19 Q. Do they appear to come with a frame of mind in favor of  
20 wind or opposed to wind?

21 A. (Pinello) They have all worked for the wind industry.

22 CMSR. IGNATIUS: I think that's all of  
23 my questions. I appreciate your help.

24 WITNESS LEVESQUE: Thank you.

[WITNESS PANEL: Pinello~Levesque]

1 CHAIRMAN GETZ: Other questions?

2 Director Muzzey.

3 DIR. MUZZEY: This is for Mr. Levesque.

4 BY DIR. MUZZEY:

5 Q. A few minutes ago you said that "the Town's current  
6 site plan regulations are inadequate to address this  
7 type of a proposal." Could you just talk a little bit  
8 more as to in what way they're inadequate?

9 A. (Levesque) The thing that comes to mind immediately is  
10 the setback need for this kind of development. So, we  
11 have, you know, requirements around that issue in our  
12 regulations, but this is a different kind of  
13 development. They don't contemplate a fall zone for a  
14 facility like this, nor some of the other issues  
15 surrounding sound and whatnot. So, you know, this is a  
16 different kind of development. And, clearly, when our  
17 regulations were developed, it did not contemplate this  
18 kind of development.

19 Q. So, what would the ramifications then be of this type  
20 of development being reviewed under those site plan  
21 regs.?

22 A. (Levesque) I'm sorry, I don't understand your question.

23 Q. Well, you say they're inadequate because they don't  
24 address certain types of things, setbacks, sound, and

[WITNESS PANEL: Pinello~Levesque]

1 that type of thing. So, what are the ramifications of  
2 trying to review a project --

3 A. (Levesque) Oh, I see.

4 Q. -- under these inadequate regulations?

5 A. (Levesque) Well, they might -- the project might move  
6 forward and not take into account the special needs of  
7 that kind of development. And, as a result, have  
8 negative effects, for instance, to abutters, as an  
9 example. Clearly, what the Ad Hoc Committee is working  
10 on is to try to address those kinds of things, so, in  
11 fact, it does address the various requirements that are  
12 fairly specific to wind development.

13 Q. So, the project could move forward, despite the  
14 inadequacies. It's just not all of those --

15 A. (Levesque) Correct.

16 Q. -- aspects of it would be reviewed?

17 A. (Levesque) Well, it would be reviewed, but some of the  
18 aspects are not taken up in proper context in the site  
19 plan review regulations.

20 DIR. MUZZEY: Okay. Thank you.

21 CHAIRMAN GETZ: Mr. Harrington.

22 MR. HARRINGTON: Yes, I just had a  
23 couple of other questions.

24 BY MR. HARRINGTON:

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 Q. As far as the funding for the -- excuse me, these  
2 outside consultants, is it correct to then assume that  
3 it's going to be -- you have funding available, if it's  
4 approved by the Selectmen, in the form of 7/12ths of a  
5 planner's salary?

6 A. (Witness Levesque nodding in the affirmative).

7 Q. And, how much would that be, approximately? What does  
8 a planner in the Town of Antrim make?

9 A. (Pinello) I don't have the budget in front of me, but  
10 --

11 Q. Ballpark?

12 A. (Levesque) It was in the 30's.

13 Q. So, you're looking at something less than \$20,000 for  
14 your total --

15 A. (Levesque) No, I think there's more. I think there's  
16 more still available in that budget, from what we  
17 looked at at our last meeting.

18 Q. Maybe I'm a little confused then. I thought it was the  
19 planner's salary who worked through the end of May,  
20 would have collected salary for five months of the  
21 year, that would leave seven months of the year left.  
22 If the salary was in the 30's, that's a little bit more  
23 than half, so that's why I'm saying --

24 A. (Pinello) And, that's within the range.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}

[WITNESS PANEL: Pinello~Levesque]

1 Q. -- \$20,000.

2 A. (Levesque) I think it was a little more. But, in that  
3 -- 20 to 30, somewhere in there.

4 Q. Okay. Two final questions, I guess. You both stated  
5 in your testimony about the need for the Town to come  
6 up with alternative methods that basically take into  
7 account similar to the things that the SEC would do.  
8 And, you're saying that you're going to develop this  
9 ordinance that way. But, at least personally, I'm kind  
10 of stuck in a hard spot here, because what I'm being  
11 told is all these things are going to happen, yet I  
12 don't have an ordinance to look at. We've had a  
13 similar case like this, in the case of Clean Power, in  
14 the City of Berlin, but they were able to present us  
15 with a whole list of the City's ordinances that, in  
16 fact, have been changed and put into effect, so that we  
17 could evaluate them and came to the conclusion that  
18 they did, in fact, were equivalent enough to the SEC's  
19 rulings that we could not take jurisdiction of that  
20 project. In this case, how are we supposed to do that  
21 without seeing the ordinance, and just taking it on  
22 faith that there will be an ordinance that will  
23 adequately address all the provisions of 162-H?

24 A. (Pinello) Certainly, I can go back to my briefcase and

[WITNESS PANEL: Pinello~Levesque]

1 bring you the piece that I have for that. And, I  
2 understand that's a concern. However, we are operating  
3 on parallel schedules. You can see from the minutes  
4 that we have intent, and that we've been working at  
5 that. If the hearings continue, we can provide that.  
6 We can continue to provide to show that that's there.  
7 We also -- you have the choice of taking jurisdiction  
8 or not. You also have the choice of taking  
9 jurisdiction at a later time. Right now, we're working  
10 on this path through the Board of Selectmen's choice  
11 and Eolian -- Antrim Wind's choice, the permit was --  
12 the request for SEC jurisdiction was requested. We  
13 are, you know, we're working on parallel things, there  
14 certainly is intent. I do have the document, the  
15 Planning Board will be working with that. I understand  
16 there are questions. But, certainly, there is intent,  
17 there is work. If it doesn't work, then that's what,  
18 when we originally discussed this, I believe in -- was  
19 it April 22nd, I'm not sure, we said "if it doesn't  
20 work, then the SEC is still here."  
21 Q. Okay. Thank you. One final question, I guess. And,  
22 this may be the big question, I guess. The "why?"  
23 question. I mean, the Town is now looking at spending  
24 somewhere around \$20,000 in hiring outside consultants.

{SEC 2011-02} [Day 2 - Morning Session Only] {06-27-11}



[WITNESS PANEL: Pinello~Levesque]

1 They're hiring a -- the Planning Board's hired legal  
2 counsel, which I guess there's volunteers giving money  
3 to, it's not coming from Town funds, but it's still  
4 money coming out of the town, the people of Antrim.  
5 There's an incredible amount of time and effort that's  
6 going to be spent over the next six to nine months on  
7 this.

8 So, why not simply allow the SEC to  
9 handle it? You'll have access to Public Counsel,  
10 that's full time, and no charge to the Town. What is  
11 it you feel that the SEC is going to do or not do that  
12 you think that the Town could do better? And, don't  
13 take that as I'm being defensive of the SEC.

14 A. (Pinello) No, no, no. There's --

15 Q. I'm just sort of curious.

16 A. (Levesque) It's a good question, I think. I can only  
17 speak for myself. When the Planning Board began to  
18 develop the proposal for a town meeting that you heard  
19 about earlier today, back late last year, and then had  
20 a series of hearings, that's when I really got engaged  
21 in the process. And, I just knew that that was not the  
22 proper way to proceed. And, consequently, ran for the  
23 Planning Board seat; won the seat. And, from day one,  
24 my interest was to make sure that, if the developer

[WITNESS PANEL: Pinello~Levesque]

1 moves forward with the Project, and I hope they do,  
2 that, in fact, we had in place the proper procedures  
3 under which they could file an application with the  
4 Town, because I believe in local control. And, I  
5 believe that our town has enough history with large  
6 kinds of projects. And, it's a big enough town, with  
7 capacity both with the Planning Board, and we did have,  
8 you know, staff to help us, and we will get consultant  
9 help to help us, that we, in fact, can handle this kind  
10 of project. Is it a really large project that's going  
11 to take a lot of time from a lot of people?

12 Absolutely. And, I believe that we can do a good job  
13 with that in that local control capacity.

14 MR. HARRINGTON: Thank you. That's all  
15 the questions I've got.

16 CHAIRMAN GETZ: Director Scott.

17 DIR. SCOTT: Hopefully quick.

18 BY DIR. SCOTT:

19 Q. Again, I had asked you earlier about -- I gave you a  
20 hypothetical in that the ordinance wasn't passed, the  
21 Town said "no", you suggested that you would press on  
22 with a site plan regulation of some sort. My question  
23 is, at what point would you want SEC to take control?

24 A. (Pinello) I guess, if neither the ordinance nor the

[WITNESS PANEL: Pinello~Levesque]

1 site plan regulations, if we came to an impasse within  
2 the voting portion of the community, whether it was  
3 that we couldn't implement regulations, couldn't  
4 implement an ordinance, it seems to me that the law --  
5 the statute is clear that the SEC has a choice with  
6 this 30 meg. choice, that then it would be clear that  
7 the community was unable to do that. This process is  
8 fairly new. None of us have experienced a community  
9 that has a zoning history, has interested parties to be  
10 willing to put the time and the work into it, with the  
11 size of a facility that is discretionary. So that that  
12 part is unusual. And, in some ways, unchartered  
13 territory for all of us. So, in my opinion, it would  
14 be, if we were unable to bring forth an ordinance,  
15 unable to bring forth local planning, then the  
16 responsibility would then fall to the state, as it does  
17 in other kinds of statutory obligations, other  
18 departments, other places in the State of New Hampshire  
19 have that.

20 A. (Levesque) I have every confidence that the voters in  
21 Antrim, if given the opportunity to vote on a  
22 reasonable ordinance around this issue, it will, in  
23 fact, adopt it. In the past, we've done things such as  
24 passed a bond for a million dollars to rehab our Town

[WITNESS PANEL: Pinello~Levesque]

1 Hall, which is significant, and another one for the  
2 Library. These are significant expenditures in town,  
3 and the town has rallied around those issues, because  
4 they were good for the community. And, I think they  
5 will see that when this gets forward. And, I have  
6 every confidence in the Ad Hoc Committee and the  
7 Planning Board to put something forward that does the  
8 job and is well done.

9 CHAIRMAN GETZ: Mr. Iacopino.

10 BY MR. IACOPINO:

11 Q. Ms. Pinello, it sounds to me as though you have a  
12 working draft of an ordinance and regulations for the  
13 Ad Hoc Committee?

14 A. (Pinello) Yes.

15 Q. Has that been made available to the public?

16 A. (Pinello) The Planning Board asked that we do that  
17 after our work session on --

18 A. (Levesque) Thursday.

19 A. (Pinello) -- Thursday.

20 Q. As of today, it's not a public document, is that  
21 correct?

22 A. (Pinello) It is a public document in the sense that  
23 it's, you know, was created by a public group. The  
24 Planning Board asked it to be released after that.

[WITNESS PANEL: Pinello~Levesque]

1 Q. So, as of today, it's not available to the public, is  
2 that correct?

3 A. (Pinello) Yes.

4 Q. And, it has not been shared with the Applicant either,  
5 is that correct?

6 A. (Pinello) That is correct, sir.

7 Q. The only other question I have, on these two -- there  
8 have been mention of two prior ad hoc committees in  
9 your town; one being when there was a private prison  
10 proposal and one being when there was a nuclear waste  
11 dump proposal. Were those ad hoc committees, were they  
12 formed for the purpose of drafting ordinances around  
13 those issues, private prisons and waste facilities, or  
14 were they -- or were they formed for the purpose of  
15 opposing those types of facilities?

16 A. (Pinello) Thank you. The ad hoc committee, in regards  
17 to the private prison, was for purposes of planning  
18 regulations and ordinances. The nuclear waste dump was  
19 to provide information to the Department of Energy, as  
20 the whole region did. There are other examples of ad  
21 hoc committees. Our Section 8 housing is an example.  
22 We had a need and a proposal, but didn't have zoning  
23 ordinance and regulations allowed for our senior  
24 housing in town, so a committee was set together for

[WITNESS PANEL: Pinello~Levesque]

1 that.

2 Another one would be -- our Master Plan  
3 is done in a similar fashion, where members of the  
4 Planning Board and non-members participate to move  
5 forward a new Master Plan. That's traditionally how  
6 it's done.

7 The other part that I would say to you  
8 is, from -- they range from the Library, the Aiken Barn  
9 and the Aiken House, which are now in Town ownership.  
10 The Civil War statute, the Town Hall, this is how we do  
11 things in Antrim. When there's an issue that is  
12 complex and involves many different opinions, we form a  
13 committee, people who have the time, perhaps the  
14 expertise, and then you move forward and do that.

15 Q. And, my last question is, is it correct, as Mr. Webber  
16 testified, that there has been, since March, no  
17 business before the Planning Board in more of the more  
18 traditional nature of the Planning Board? Site review  
19 approvals, lot line adjustments, sort of that "meat and  
20 potatoes" stuff that a planning board normally  
21 considers?

22 A. (Pinello) If you look at our exhibit, the votes, I will  
23 admit that the 17th of March does take up one page.  
24 But, if you look through the 19th of May, we've had,

[WITNESS PANEL: Pinello~Levesque]

1 certainly, as many planning boards have experienced,  
2 business has slowed down, in terms of subdivisions.  
3 But we've worked with our building inspector on changes  
4 that he would like to bring forward to the Board of  
5 Selectmen. We've worked on our -- reviewing our bonds  
6 that we have out, and being clear about where those are  
7 and sending notices for those. We've had a road issue  
8 that we worked with. We also have taken this time to  
9 work on our procedures and our by laws. So that we've  
10 -- there's been a variety of tasks.

11 Q. Well, other than -- what you've just said, though, I  
12 don't know where it reflects on here. But, other than  
13 the road issue, it doesn't sound as though you've  
14 actually considered any applications for site plan  
15 review?

16 A. (Pinello) None have come in.

17 Q. Okay. And, that's what I was getting at.

18 A. (Pinello) Yes. None have come in.

19 MR. IACOPINO: Okay. That's all I have.

20 CHAIRMAN GETZ: Anything further from  
21 the Committee?

22 (No verbal response)

23 CHAIRMAN GETZ: Okay. Let's take stock  
24 of where we are. It's five after 1:00. Mr. Little, are

[WITNESS PANEL: Pinello~Levesque]

1 you going to have any redirect for these witnesses?

2 MR. LITTLE: No, I'm not.

3 CHAIRMAN GETZ: Okay. Then, if there's  
4 nothing further from the panel?

5 (No verbal response)

6 CHAIRMAN GETZ: Okay. Then, the  
7 witnesses are excused. Thank you. And, Mr. Mulholland,  
8 did you have -- we're not going to do this right now,  
9 because we're going to take a lunch break, but did you  
10 have questions for Mr. Webber?

11 MR. MULHOLLAND: No, I don't think so.

12 CHAIRMAN GETZ: Okay. Well, let's be  
13 definitive.

14 MR. MULHOLLAND: No, I don't have  
15 questions for Mr. Webber.

16 CHAIRMAN GETZ: Okay. Then, I think we  
17 were all set for Mr. --

18 MR. HARRINGTON: I had one.

19 CHAIRMAN GETZ: You had one more for  
20 Mr. Webber? Okay. All right. Well, we'll deal with that  
21 after lunch then. In terms of the Block panel, were all  
22 four of Block, Cleland, Longgood, and Law, were they all  
23 going to testify?

24 FROM THE FLOOR: Well, I'm here.



1 CHAIRMAN GETZ: Is anybody not going to  
2 testify? Would be available to testify?

3 FROM THE FLOOR: We're available.

4 MR. BLOCK: We're available.

5 FROM THE FLOOR: We're available.

6 CHAIRMAN GETZ: Okay. And, is there  
7 cross-examination for that panel?

8 MR. MULHOLLAND: A small bit, yes.

9 CHAIRMAN GETZ: Okay. Well, we'll take  
10 that up then, after we --

11 MR. RICHARDSON: Very small, and only  
12 two of the four that you listed.

13 CHAIRMAN GETZ: Okay. All right. Then,  
14 let's -- and, then, one other thing I wanted to do is, and  
15 Mr. Iacopino, I believe, has spoken to everybody, maybe  
16 not Mr. Mulholland. But, after we get done with the  
17 witnesses, I want to make an opportunity for closing  
18 statements, ten minutes for each side. However you want  
19 to divide it up among yourselves, whether it's one party  
20 ten minutes for and one party ten minutes against, or two  
21 parties five minutes each, however you want to divvy it up  
22 among yourselves. But it's 20 minutes total is going to  
23 be the limit, we're going to -- ten minutes each side,  
24 we're going to stick to that. So, --

1 MR. LITTLE: Well, I had a question  
2 about that.

3 CHAIRMAN GETZ: Yes.

4 MR. LITTLE: And, that is, I was unclear  
5 as to the role of Public Counsel. Are they considered a  
6 side or are they --

7 CHAIRMAN GETZ: I think they've --

8 MR. LITTLE: I mean, I understand how  
9 the Commission views myself and other -- and the Applicant  
10 and Mr. Richardson, but --

11 CHAIRMAN GETZ: There are two sides  
12 here; for jurisdiction, against jurisdiction. And, Public  
13 Counsel's, Mr. Roth, on June 1, said "Counsel for the  
14 Public has taken the position that jurisdiction should not  
15 be granted." So, who's ever taking that position gets to  
16 divvy up ten minutes to argue that case. Mr. Block.

17 MR. BLOCK: Will there be a short recess  
18 so that can be discussed amongst the parties?

19 CHAIRMAN GETZ: We're taking lunch.

20 MR. BLOCK: So, "during lunch" is the  
21 answer to the question.

22 CHAIRMAN GETZ: Yes. Anyone else? Are  
23 there any other questions? Mr. Froling.

24 MR. FROLING: I'd just like to note for

1 the record, I've come unprepared in the sense that I don't  
2 have instructions from my clients. We've made it clear  
3 from the beginning that we would listen to the testimony  
4 and then make a decision. I'll have to confer. I don't  
5 know whether you're prepared to wait for conferring or not  
6 wait for conferring?

7 CHAIRMAN GETZ: No, we're not. With the  
8 -- the notice for today said that we would move it through  
9 to deliberations, if possible. If you can get  
10 authorization to take a side, then you can do that. But,  
11 if we are -- or, I'm hoping, given what I've heard, that  
12 we're going to move onto deliberations after closing  
13 statements.

14 MR. FROLING: Okay. I'd just like to  
15 note that for the record then.

16 CHAIRMAN GETZ: Okay.

17 MS. VON MERTENS: New Hampshire Audubon,  
18 somewhat echoing what Mr. Froling said, but I do have an  
19 ever so brief statement, and it's not taking one side or  
20 the other, but it's wishing for a -- am I speaking too  
21 quickly? -- for full environmental exploration, regardless  
22 of who takes jurisdiction.

23 CHAIRMAN GETZ: All right. With that,  
24 then we'll take the lunch recess, and we will resume at

1 2:00.

2 (Whereupon the *Day 2 Morning Session*  
3 recessed for lunch at 1:10 p.m. The  
4 *Day 1 Afternoon Session* to resume  
5 under separate cover so designated.)  
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