

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

FEBRUARY 7, 2013 - 1:38 P.M. DAY 3
Concord, New Hampshire AFTERNOON SESSION ONLY
DELIBERATIONS

IN RE: SITE EVALUATION COMMITTEE:

DOCKET NO. 2012-01: Application
of Antrim Wind, LLC, for a
Certificate of Site and Facility
for a 30 MW Wind Powered Renewable
Energy Facility to be Located in
Antrim, Hillsborough County,
New Hampshire.

PRESENT: SITE EVALUATION COMMITTEE:

Amy L. Ignatius, Chrmn. (Presiding Officer)	Public Utilities Comm.
Kate Bailey, Engineer	Public Utilities Comm.
Harry T. Stewart, Dir.	DES - Water Division
Johanna Lyons, Designee	Dept. of Resources & Econ. Dev.
Brad Simpkins, Dir.	DRED-Div. Forests & Land
Ed Robinson, Designee	Fish & Game Department
Craig Green, Designee	Dept. of Transportation
Richard Boisvert, Designee	Div. Historic Resources
Brook Dupee, Designee	Dept. Health & Human Svs.

COUNSEL FOR THE COMMITTEE: Michael Iacopino, Esq.

COURT REPORTER: Susan J. Robidas, N.H. LCR No. 44

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APPEARANCES (CONT'D)

APPEARANCES: Reptg. Antrim Wind, LLC:
Susan S. Geiger, Esq. (Orr & Reno)

Counsel for the Public:
Peter C. L. Roth, Esq.
Sr. Asst. Atty. General
N.H. Atty. Gen. Office

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1 AFTERNOON PROCEEDINGS

2 CHAIRMAN IGNATIUS: Welcome
3 back, everyone. We're going to resume
4 deliberations. There's one follow-up item to
5 mention during the break. Mr. Iacopino had
6 been asked to take a look and see if the AMC
7 agreement had ever been submitted in executed
8 form, because the one that was in the file had
9 signatures from the Applicant, but did not have
10 a signature on the AMC. And we heard from Dr.
11 Kimball that he had in fact executed it.

12 But Mr. Iacopino, you checked,
13 and in fact it was submitted? A signed
14 version from AMC was submitted?

15 MR. IACOPINO: We do have a
16 signed version, yes.

17 CHAIRMAN IGNATIUS: Thank you.

18 MR. IACOPINO: From both
19 parties.

20 CHAIRMAN IGNATIUS: So there's
21 no need to put any condition in about having
22 that put in the file.

23 We move now to the question of
24 aesthetics that we've already discussed and

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1 taken a vote that we find, from visual
2 impact, there to be an undue adverse effect
3 on aesthetics within the community. But we
4 didn't talk about whether that's an impact
5 that has a solution to it, in terms of
6 conditions or mitigated steps. And so I want
7 us to go back and work through that again and
8 hear people's views. What is it that you
9 find that makes it an undue adverse effect,
10 and is it something that, for example, given
11 your finding, you could resolve through a
12 condition? And it may be different people
13 have different reasons for finding it to be
14 an adverse effect and, therefore, would have
15 different solutions available to them. So
16 this may take a little while to go through,
17 but I think it's really important that we do
18 this carefully and as thoroughly as we can.

19 I know, Mr. Dupee, you had
20 mentioned during the break that it's
21 something you'd been thinking about a lot.
22 So let me start with you, if you'd like to
23 begin the conversation, because you had said
24 you'd been thinking it over in the last

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7

1 couple days.

2 MR. DUPEE: Yes, I have Madam
3 Chairman. Thank you for the opportunity.

4 So, the majority of us did
5 find that there might be an unreasonable
6 adverse impact on aesthetics. So I thought
7 I'd try to quantify for us or try to grasp
8 together reasons why we might feel that way,
9 and then some things we might be able to do
10 about it.

11 So, first of all, I don't
12 think it's because there's a mountain or
13 there's a water body that would be visible
14 from the turbines, because if that was the
15 case, then we would have precious few places
16 in the state where we'd be siting wind
17 facilities. In fact, we've sited several
18 which, I think we all agree, had scenic
19 views. So I don't think it's just a question
20 of the scenery there.

21 So let's talk about aesthetics
22 for just a moment. Looking back at what the
23 Merriam-Webster Dictionary finds, the primary
24 definition of "aesthetics" is, "of, relating

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1 to or dealing with aesthetics or the
2 beautiful." That's the Merriam-Webster
3 Dictionary definition. We all learned in
4 childhood "where beauty lies"; right? "It's
5 in the eyes of the beholder." We all know
6 this. In the case of the Willard Pond area,
7 which I'll use loosely to mean the
8 conservation areas in total, the beholders
9 are individuals who have chosen to visit an
10 area that is known for its wilderness
11 experience, and it's separate and distinct
12 from all but the most limited anthropogenic
13 activities. So this is a place for fish,
14 birds, trees and, yes, for really large
15 rocks, to exist separately from the works of
16 man.

17 So as we think about our
18 business as a committee, some thoughts I've
19 been pondering: So now we know we're dealing
20 with a population of these beholders who have
21 a clearly defined aesthetic expectation. If
22 they're going to a wildlife preserve which
23 has made its mantra to be basically a place
24 where you go not to go see humanity's actions

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9

1 and buildings and things, for those users, I
2 think it's fair for the Committee to decide
3 that beauty is going to be found in the
4 presence of natural things. It's not going
5 to be the built environment for that group.

6 We know that the Willard Pond
7 conservation area is a pre-existing concept.
8 It's open, and the public has known about the
9 Willard Pond area for many years. It's not
10 something that's new or has been sheltered
11 from public view. It's pretty well known
12 what they're trying to accomplish and what
13 they're doing, as the record communicates.

14 The Applicant told us that
15 they had looked at several different
16 possibilities for siting a facility, and they
17 chose to site it here for the reasons they've
18 articulated. But assuming that the Applicant
19 chose to do that, they also, by reading the
20 statute, recognized there was going to be a
21 risk and that this committee would have to
22 find certain things to be true before a
23 permit can be granted.

24 So there are -- another point

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10

1 to consider here is that, like I mentioned,
2 it's not just the fact there's a mountain or
3 a river or a lake or a stream that makes this
4 place valuable. Basically, this is an area
5 where there are no other nearby great ponds
6 or undeveloped shorelines and empty viewsheds
7 where the Audubon Society or other
8 conservation units could pick up and move to,
9 even if they had the desire to do so, even
10 though they were there prior to.

11 So now we have sort of, I'll
12 call it "aesthetics conflict." And I would
13 define that, sort of as we talked about the
14 other day, a conflict between black and
15 white, wet and dry. If one condition exists,
16 the other one logically cannot. So if you
17 have a notion that you have a place to be for
18 wild, non-man-made-generated facilities in
19 sight, then that conflicts when you have a
20 windmill or a radio tower or any other
21 structure created by a human being. So we
22 know that.

23 So we're going to talk about,
24 now that we have a conflict, we have to

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11

1 decide how can we mitigate that. And Ms.
2 Lyons mentioned the other day, oftentimes a
3 technique or process is to swap something.
4 So we as a committee might choose to swap
5 something of presumably lesser value for
6 something you would agree to be of greater
7 value, because certainly you wouldn't swap
8 the other way around. You wouldn't swap two
9 tens for a five. You're not going to work
10 that way. In this case, we have to look at,
11 as the Committee knows firsthand, not just
12 from the exhibits it looked at, but also from
13 having visited the site, standing at the
14 waterfront of Willard Pond and looking out,
15 you can see in one glance what's really at
16 issue here: The turbines on the ridgeline
17 that can be visible from this place. So,
18 having thought about that, we all looked at
19 the exhibits that were presented during the
20 hearing, and we know the land that is around
21 this area, the nature of the land. It's
22 water, it's trees, it's ledge. It's all of
23 these things.

24 So the Committee has to

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12

1 decide: Are there other things we could
2 swap, one acre or two acres or 80 acres, or
3 something else around that pond that we think
4 would be a greater aesthetic value than the
5 pond itself in its undisturbed viewshed?

6 So a question for us to think
7 about: If we want to mitigate, what is there
8 for us to see that would be of greater value
9 than is currently there?

10 There's another argument that
11 could be made, and I've heard it made many
12 times, that, "Look, you have sort of an
13 opportunity on the table right now to accept
14 a certain amount of development, and the
15 benefit in accepting a certain amount of
16 development is that it will be an offsetting
17 benefit -- in this case, land conservation."
18 We heard about that offer made by the
19 Applicant, which is very generous. So if the
20 choice is to not go down that road -- i.e.,
21 to not accept to develop this opportunity --
22 then we run the risk in the future of another
23 development usage coming to that area which
24 could be even more disturbing. So that's

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13

1 kind of the risk that we're sort of trying to
2 balance here.

3 I mean, from my own
4 perspective, the fact that if the wind farm
5 was not sited here, there certainly would be
6 a probability of some other use coming along
7 that would be equal to or worse, if you will.
8 But if the Committee chooses to site this
9 facility there now, that probability is a
10 certainty. We will have absolutely
11 introduced a man-made structure into this
12 environment. And we might say to ourselves,
13 we have chosen in that case the lesser of two
14 evils, but it's still a choice between them.

15 Also, given the time and
16 attention that a number of the conservation
17 agencies have spent to develop this
18 super-sanctuary, I'm wondering that, once
19 they recognize that there is a value on that
20 property, in terms of it being used for wind
21 generation, and if it was not sited, would
22 that not be an opportunity for them to say,
23 "Let's go out and do more than what we've
24 already done," which is to try to preserve

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14

1 that area more fully? And they might make a
2 better case for that. They certainly made a
3 case for, I think, 30,000 acres. Maybe they
4 can make a case for a few more.

5 So, the last thought I want to
6 bring up before turning it back over to Madam
7 Chairman is that we know the general court
8 has passed legislation, which we all know is
9 R.S.A. 162-H. And in there is language about
10 this committee requiring us to not find an
11 undue -- reasonably undue --

12 MR. IACOPINO: Unreasonable
13 adverse effect on aesthetics.

14 MR. DUPEE: Thank you, Mr. --
15 or Attorney.

16 So they've asked us to make
17 that finding. And so I have to assume that
18 if the legislature put those words into that
19 statute, it meant that this committee will
20 probably run across that circumstance at some
21 point during its deliberations on
22 applications.

23 So if there are those amongst
24 the Committee who think that a wind farm as

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1 I've described it, and the Willard Pond area
2 as we've heard it described to us, if you
3 think those are compatible in an aesthetics
4 sort of sense, I'd be curious to hear what
5 people think would be non-compatible. I'm
6 trying in my mind to understand. Maybe
7 there's something I'm missing here. Maybe
8 there's something else that would be
9 inappropriate. So I would like those who --
10 if anybody does think this is an appropriate
11 use -- I know most of us didn't the other
12 day -- those who do or are on the fence or
13 thought more about it and could give us a
14 better example, then I'd be very interested
15 in what that might be.

16 So, Madam Chairman, that's my
17 remarks.

18 CHAIRMAN IGNATIUS: Thank you.
19 I think that's a really good starting point to
20 try to frame what is, granted, a fairly
21 subjective analysis of this that goes to the
22 heart of what people feel about a community and
23 feel about the intrusions that development
24 would place on it, and what's something that we

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16

1 simply accept and what's something that has
2 gone beyond what we think we should accept.
3 And I think your reminder that the statute's
4 written for a reason, there must have been some
5 anticipation of a point at which the balance is
6 wrong and the intrusion is greater than should
7 be allowed was in the drafters' minds.

8 So, I think that is what led
9 us to the vote we took the other day, the
10 straw vote, that had agreement that, as
11 proposed, the project did cause an undue
12 adverse effect on the aesthetics of the area.
13 Willard Pond was one of the areas discussed
14 by some Committee members, but not the only
15 area. And I think it's important that as we
16 think about whether there's anything that
17 could be done as a condition, that we not
18 lose sight of the fact that it isn't just
19 Willard Pond, although that was a very
20 significant piece of it.

21 Other Committee members, do
22 you want to pick up where Mr. Dupee left off?
23 Do you want to -- I think we're going to want
24 to hear from everybody. So, anyone want to

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17

1 take it up next? Is there anyone who has a
2 view that there are conditions that would
3 alter your conclusion of an adverse effect on
4 aesthetics? Ms. Bailey.

5 MS. BAILEY: I have also been
6 thinking about this. And I appreciate, Mr.
7 Dupee, your summary, because I'm kind of same
8 at the place you are. I'm not sure I'm at the
9 same place that everybody else is. I voted
10 that I wasn't sure about whether it had an
11 undue visual impact, unreasonable adverse
12 effect on aesthetics. And so, in thinking
13 about it and in thinking about what Mr. Dupee
14 just said, I realize that my biggest aesthetic
15 concern for this project really is about
16 Willard Pond, because I think that's an
17 important local scenic resource. And I think
18 that I agree that it seems that one could
19 conclude that this does overwhelm the region.
20 I think some people believe that. And I'm not
21 really sure where I come out on whether it
22 overwhelms the entire region. I don't think
23 that the statute would allow us to find an
24 undue adverse impact because of a few

1 residences. But I think for me it really is
2 about the important local scenic resource of
3 Willard Pond.

4 So in thinking about that, I
5 thought: Well, maybe there is some trade
6 that the Audubon Society would be willing to
7 make. You know, Ms. Vissering said you could
8 reduce the height of the towers. But I think
9 there was also testimony that suggested that,
10 you know, there really isn't a difference
11 between a 200-foot and a 400-foot tower on
12 the visual impact. But there may be a
13 greater reduction on the visual impact if
14 some of the towers were eliminated; although,
15 we don't know if the project would survive
16 that, because it may not have enough energy
17 output.

18 So I was kind of just throwing
19 up my hands, thinking: How are we going to
20 solve this? And then I thought: Well, the
21 Audubon Society has demonstrated that they --
22 that conservation is important to them. So,
23 rather than completely reject the application
24 because of visual impact, I thought maybe we

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1 could make it a condition -- and this is just
2 an idea -- that the Applicant try to work
3 with the Audubon Society over a certain
4 period of time to see if there's anything
5 that they could do to offset this great
6 visual impact on Willard Pond. You know, I
7 mean, it's sort of like Ms. Lyons was talking
8 about yesterday. Is there something they
9 could trade? So that was my idea for giving
10 the Applicant some ability to try to overcome
11 this major hurdle.

12 CHAIRMAN IGNATIUS: All right.
13 Thank you. Who wants to go next? Dr.
14 Boisvert.

15 DR. BOISVERT: I thought about
16 this a lot as well, probably not as much as Mr.
17 Dupee. I look at this project as having a very
18 large, not footprint, but position on the
19 landscape. I have wondered how it could be
20 mitigated. I'm not coming up with any
21 solutions. I'm open to them. My perspective
22 is somewhat from my own personal way, that
23 "beauty is in the eye of the beholder." As
24 looked through my eye when I'm out doing the

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1 work that I do, investigating archeological
2 sites that are hundreds, sometimes thousands of
3 years old, I stand there and look around and
4 wonder: What was it like for people in the
5 past at this place? And as I look around, I
6 see -- because I work a lot in the hilly parts
7 of the state -- I see the landscape. I look at
8 it and think I'm looking at what they looked at
9 a long time ago. And it gets to the concept of
10 a sense of place. And we like -- we as a human
11 creature like to identify with places. And
12 many people will seek out those very natural
13 areas to sustain or acquire that sense of
14 place. Now, there are many people who are
15 urban dwellers who love the city and love the
16 city landscapes and the museums and so forth.
17 Not every person has it. But there are enough
18 people out there, in my opinion, that do seek
19 out and feel the need for this kind of
20 landscape. And I look at it not just from
21 Willard Pond, but from the other directions,
22 literally. It's going to be seen from a lot of
23 places. And mitigating it from one direction
24 wouldn't necessarily mitigate it from the

1 others. And I'm not quite sure I'm ready to
2 say one view or one area is more important than
3 another, or is the only one maybe is a better
4 way to put it, than the others. You know, I
5 come to this conclusion reluctantly. I
6 understand the positive benefits of these kinds
7 of projects. But as I look at it and I look at
8 the question of, does this cause an
9 unreasonable adverse effect on the aesthetics,
10 I come down with the answer "Yes."

11 CHAIRMAN IGNATIUS: Thank you.
12 Who wants to go next? Seeing no hands, I'll
13 take it.

14 As I said our first day when
15 we first took this up, I really consider this
16 a question of scale and context, how this
17 project affects the reality of what the
18 community of Antrim is. And it's very
19 different from thinking about the ridgeline
20 in Lempster and the development in Granite
21 Reliable up in the White Mountain, and even
22 the Groton ridgelines, where far more of it
23 is isolated and is away from kind of the
24 heart of the community. There's certainly

1 people impacted, at least in Groton and
2 Lempster. But in Lempster, far less so. And
3 when you think about Granite Reliable, you
4 know, that's really so remote, that most of
5 the impact is on the natural wildlife than
6 any humans. Here, just because of the way
7 the ridges are and the way the community
8 development is, it seems like you've got some
9 key locations that are part of the heart of
10 Antrim that are very much affected. You've
11 got the Willard Pond that we've talked about
12 quite a lot that's a very special place
13 within the people of Antrim, held dearly, but
14 also within the region. And you have things
15 like Gregg Lake, that's sort of a community
16 gathering/recreation area, you know,
17 picnicking and swimming and boating and town
18 soccer fields and all that sort of thing.
19 And those towers just are going to ring
20 around and hang over that area.

21 Given that topography, to then
22 think about towers that are the largest in
23 the state, not just wind turbines, but the
24 largest wind turbines that we have yet to

1 see -- they're the same as the Granite
2 Reliable ones -- and they, unlike Granite
3 Reliable, placed in very remote places in the
4 White Mountains, they're being placed right
5 in the center of a very small community, I
6 find it just overwhelming as to scale and too
7 much for a small community.

8 We have a need for renewable
9 energy. We have policies in the state that
10 support development of renewable energy. I
11 personally have been working on policies to
12 support renewable energy in various jobs in
13 my involvement with state government. But I
14 don't think that means that all renewable
15 installations are appropriate in all places.
16 It's not an absolute requirement that if you
17 can put one there, you must put one there.
18 It's got to be appropriate. And in my mind,
19 it just is too much for this location. I've
20 wondered in the last couple of days: Is
21 there any way that you could mitigate that?
22 In my mind, could you bring down the height
23 significantly enough that it becomes less
24 intrusive? And as Ms. Bailey pointed out,

1 Ms. Vissering's comment that 400 versus 200
2 doesn't make that much of a difference when
3 one sees them, I'm not quite sure what to
4 make of that, but that was her testimony.
5 Certainly, removing towers entirely and
6 truncating the number to something far fewer,
7 so that some of the most intrusive ones would
8 no longer be present, is a possibility. But
9 it seems to me that's really cutting at the
10 entire heart of the business plan of the
11 project. If they thought they could do with,
12 you know, 10 instead of 20 turbines -- excuse
13 me. We've got 30 megawatts. If they could
14 do with 5 instead of 10 turbines, they
15 probably would have come in for that. So I
16 find it unlikely that you could significantly
17 reduce the number and still make it viable.
18 If it were a matter of just one being moved
19 or one being deleted from the project, that
20 would be one thing. But in my mind, it's not
21 solved with the change of one turbine.

22 So I end up concluding there
23 really is no meaningful mitigation step that
24 could be taken. We could write all sorts of

1 conditions that say, you know, if you make
2 them 100 feet tall, or if you, you know,
3 reduce it down to only four or something.
4 But those are really conditions that are
5 saying "No" without having to say word "No."
6 It's sort of officially "Yes," but the
7 conditions are so extreme, that it's
8 effectively a "No." As I said, in the
9 context of noise earlier, I think if that's
10 our view, we ought to be direct about it and
11 simply say "No."

12 But I may be a minority on
13 that. It may be that people have mitigation
14 proposals that would prevail. And so I'll
15 stop now and want to hear from others, and
16 really want to hear ideas both building on
17 suggestions others made or any new ideas if
18 there are any mitigation thoughts that people
19 have, and any further on how you get to the
20 conclusion the other day of finding
21 adverse -- undue adverse impact on
22 aesthetics, because I think we do want to be
23 sure that that's clear in the record. And I
24 think we spoke to it quite a bit. But to the

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1 extent we haven't fully fleshed it out,
2 that's something that's important to do.

3 Ms. Lyons.

4 MS. LYONS: I'm looking at the
5 map. This is AWE Exhibit 09. It's the visual
6 survey. It's -- let's see. Try to have a page
7 number here. It's Figure 1, and it's the
8 visual impact map.

9 MS. BAILEY: Which appendix in
10 AWE 9 are you looking at?

11 MS. LYONS: It's 09, 9A.

12 MR. SIMPKINS: Appendix 9.

13 MS. LYONS: Yeah.

14 MS. BAILEY: I'm not following,
15 because I'm in AWE 9, and I have Cofelice and
16 Pasqualini -- oh, no, that's electronic No. 9.
17 Wait a minute. My mistake. Sorry. I have to
18 open up my window wider.

19 MS. LYONS: So it's after Page 7
20 is the map I'm looking at. And according to
21 the legend -- there's a whole legend down
22 there -- on how many turbines would be visible,
23 what struck me is that says 9 to 10 turbines
24 would be visible in areas shaded in red. And

1 that's a significant part of the town of
2 Antrim. It also spills into the neighboring
3 towns also. And it doesn't seem -- you know,
4 it seems to be -- you know, red's pretty
5 alarming. But it just seems to be a majority
6 of the color that's on this map, without it
7 just being an alarming color.

8 I often drive down Route 9
9 because I go to Monadnock State Park all the
10 time and Greenfield. So I go through the
11 town a lot, of Antrim. And I think it will
12 change the flavor of the community and its
13 surrounding communities.

14 Now, when it comes to the
15 mitigation, I don't -- we've been given a
16 package of height, number. And I'm willing
17 to keep with that, even though -- and I go
18 back to my original conversation we had two
19 days ago. I don't know how we arrived at
20 that number or location, because we weren't
21 really given a full range of alternatives to
22 evaluate. But I'm willing to settle with
23 those are the 10 turbines and their
24 configuration and the height. But I don't

1 know what the alternate is for mitigation
2 without fooling around with the footprint. I
3 did offer some vague ideas. I was trying to
4 get away from a cash settlement up front,
5 because I don't know that that's productive,
6 but something over time that can build up
7 into something that helps the community
8 ameliorate this impact to them. So I'm not
9 sure I got anywhere closer, but that's how
10 I'm feeling.

11 CHAIRMAN IGNATIUS: Is it your
12 sense that there is a cash equivalent that
13 could make you find that it's not an undue
14 impact, or is it you're not sure whether there
15 is, but we should discuss it?

16 MS. LYONS: Well, if it's not
17 physical changes, then there's some sort of
18 other compensation. So we've been talking
19 about conservation easements, which are
20 basically a cash outlay, because someone's
21 going to have to be required to purchase or
22 somebody might have to gift it. But I'm not
23 sure that there's an interest in someone
24 gifting it to have mitigation here. And my

[DELIBERATIONS]

29

1 feeling is that it really should benefit the
2 public who is having the greatest impact. So
3 it should be something that the communities --
4 or community wants.

5 CHAIRMAN IGNATIUS: All right.
6 Other thoughts? Mr. Stewart.

7 DIR. STEWART: Well, as the only
8 one that voted that there wasn't, I think I
9 should explain myself a little bit, although I
10 don't -- it doesn't seem like I'm going to
11 prevail.

12 I find this aesthetic
13 question -- of course, I'm an engineer, and I
14 go back to that. Very subjective. And I
15 understand what the Chairman has said, to a
16 degree, about the other approvals versus this
17 one. But I can't quite get to the point
18 where those approvals and the aesthetic
19 effects are that much substantially different
20 than this, either in geography or situation
21 or so forth, that it merits a different
22 conclusion. So that's really what I continue
23 to ponder, is what is the, you know, bright
24 line we're going to draw as a committee long

1 term, in terms of where aesthetics becomes a
2 deal breaker for a project? And I'm not
3 quite there. I mean, they all have large
4 turbines. You can see the turbines from
5 various locations. You know, the northern --
6 the Granite Reliable one is out in the
7 wilderness. So you have the same wilderness
8 question, I think. Lempster, you can see
9 them, but, you know, maybe not quite so
10 prominently. So I'm really having a hard
11 time with making this subjective decision
12 more objective, in the context of the
13 history, and that's why I continue to vote in
14 the, you know, in the negative, that I can't
15 quite get to the point where there are enough
16 adverse aesthetic impacts to not realize the
17 benefits, the environment benefits of the
18 project, in terms of the clean energy goals.

19 CHAIRMAN IGNATIUS: Thank you.
20 That's, I think, well put. This isn't
21 straightforward. And I understand what you're
22 saying.

23 Other comments? Mr. Green.

24 MR. GREEN: I don't know that

[DELIBERATIONS]

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1 I'm going to offer a lot. I really feel like,
2 as you said, that the Willard Pond is one of
3 the major issues and the properties around
4 that. It's a really special place. It's
5 difficult, and it's becoming more and more
6 difficult to find places like this where there
7 hasn't been a disturbance. And we are
8 continuing to lose this type of land throughout
9 the state, and it would really be nice if we
10 could keep this in its natural state and
11 protect it forever. But unfortunately, we
12 don't have enough money to buy all the property
13 and keep it that way. And even the property
14 owners that own the land apparently feel that,
15 for one reason or another, that this would be
16 okay to do on their property. This is a little
17 bit emotional for me. And also, I have to look
18 at it from a practical standpoint. Having
19 grown up on a farm, I really want the farm to
20 stay the way it is, and I don't think it's
21 going to happen that way.

22 The town has voted, a
23 majority, for this project. There are a
24 significant number of people who don't want

1 it. But the way I understood it from the
2 testimony is that the town has voted in favor
3 of this project. With that in mind, it's
4 difficult to say that this would be a bad
5 development, particularly if you start to
6 imagine that the people that own that land
7 could do something even more intrusive into
8 this wilderness area. I'm not in favor of
9 wind farms one way or the other. I think
10 they have their place. I'm not sure -- if I
11 had to compare a wind farm compared to a sea
12 of houses out there, it would be a difficult
13 choice. I think I would pick the wind farm.
14 And I don't know if there's a way to mitigate
15 for the loss of that natural scenery. I
16 would hope we could find some way to mitigate
17 it and make sure that something even worse
18 doesn't happen in that area.

19 CHAIRMAN IGNATIUS: So is your
20 conclusion, after obviously a lot of competing
21 interests and feelings, both for and against,
22 is it your conclusion that it would not be an
23 undue adverse impact by allowing the project as
24 proposed? Or are you saying that it would be,

[DELIBERATIONS]

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1 but you think there's a way that we should find
2 mitigation? I got a little bit lost.

3 MR. GREEN: Yeah, I'm sorry. I
4 think it is an intrusion into that area, but I
5 think something's going to happen one way or
6 the other. And if it is going to happen, I'd
7 like to see some kind of mitigation measure put
8 in place to offset that.

9 CHAIRMAN IGNATIUS: And any
10 thought on what sort of mitigation might be
11 appropriate or available?

12 MR. GREEN: I don't know.

13 CHAIRMAN IGNATIUS: Mr.
14 Simpkins.

15 MR. SIMPKINS: Yeah, again, I
16 don't think I'm going to be much help right
17 now, but I'll just at least kind of state where
18 I'm at.

19 One of the things that
20 resonated with me, and I think it was said
21 several times through some of the briefs, is
22 that these will be the largest structures in
23 the state. And having spent a lot of time in
24 this area myself, it's not like we're talking

[DELIBERATIONS]

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1 about significant-size mountains here.
2 Having structures that are 500 feet tall on
3 these relatively small mountains, kind of
4 what the Chair was saying earlier, the
5 context and the scope to me is really -- they
6 seem so large for this site. And maybe if
7 they were shorter or something, I don't think
8 it would be as big an issue. They just seem
9 so large for this area.

10 And, you know, the law
11 mentions -- R.S.A. 162 mentions "aesthetics."
12 So it was obviously something that they
13 wanted this body to contemplate when
14 approving a certificate. So we're left with
15 deciding where was that line that they
16 intended for us to draw. And, you know, this
17 is my first wind project. But I've been on
18 other projects with the SEC, and this
19 pertains to all. So this is, you know,
20 putting a pipeline under Great Bay to
21 transport gas or, you know, a little building
22 or a biomass plant or whatever. And when you
23 compare a wind turbine project to those
24 projects, these probably have the biggest

1 aesthetic impacts. I mean, there's not many
2 others that go on top of a mountaintop.
3 You're putting a 500-foot-tall structure. So
4 that's why I'm wondering, you know, if this
5 doesn't -- if we determine this to be
6 unreasonable, I'm not sure where that line
7 is. What would -- how big an impact would
8 you have to get to say it's unreasonable?
9 I'd like to find some type of mitigation, but
10 that's where I keep running into a roadblock.
11 I can't figure out what's an appropriate
12 mitigation for this, but I'd like to find
13 one.

14 As far as what could happen on
15 the ridge top, I think that's a valid point.
16 But also, I don't see, you know, the entire
17 ridge top becoming a sea of houses, because
18 they'd have to go through local planning.
19 And I think we've heard a lot from the towns
20 here, the select board, the planning board,
21 the conservation commission. You know,
22 they've been planning for decades. I think
23 they have a very good system down. So I
24 don't think it would be something where all

1 of a sudden you're going to see unlimited
2 building, because it would still have to go
3 through subdivision and all the other town
4 processes. And, you know, they would look at
5 that as far what's appropriate. Also, even
6 with houses, they're most likely not going to
7 be 500 feet tall.

8 So I guess I'm stuck there. I
9 think it is a very large impact. And I'd
10 like to find mitigation, but I just don't --
11 I guess I'm stuck there on what would be
12 appropriate mitigative measure for that.

13 CHAIRMAN IGNATIUS: Others? Mr.
14 Robinson.

15 MR. ROBINSON: Well, I purposely
16 went last, as I wasn't here on Tuesday to hear
17 the discussions. And I have thought about this
18 topic a lot. This is a very difficult thing to
19 put a finger on at times. I will tell you that
20 I've spent over 30 years with the State, and
21 part of my job has been to conserve some of the
22 jewels, some of the wilderness, some of the
23 wildlife habitat in the state, in various parts
24 of the state, for a lot of reasons -- Great

1 Bay, Lake Umbagog, the Connecticut River
2 Valley. We protect them for their wildlife
3 values, but also for their use by people. And
4 when you conserve an area, there's a lot of
5 expectations there. And they're different for
6 different people. But a lot of people choose
7 to go to these special places for solitude, I
8 believe, to hear nature and to see nature. I
9 believe that the Willard Pond area is one of
10 these jewels. And I agree with the Chair, that
11 the scale here with the wind farm is out of
12 sync with the area. I think it's just too
13 large. I think it's going to overwhelm the
14 quality and experience that folks might have
15 for going to Willard Pond for a lot of reasons.
16 And I don't know how you mitigate that. I have
17 no idea how to mitigate that. So I think you
18 either accept the project or you don't. And
19 right now, I think, as it is, it would
20 overwhelm the conservation values, the
21 aesthetic values of going to Willard Pond by
22 seeing these turbines there and hearing them.
23 I'm sure you'll hear them, too. So right now,
24 I can't support it.

[DELIBERATIONS]

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1 CHAIRMAN IGNATIUS: It's clear
2 that there's no good proposal on the table for
3 mitigation. A couple of ideas were thrown out
4 that might lead somewhere. Others have said
5 they just can't imagine any mitigation that
6 would be meaningful. But of the ones that were
7 thrown out, we ought to just think about them a
8 little bit more.

9 Ms. Bailey said maybe there's
10 a way you could send the Applicant back to
11 sit down with Audubon, or it could be with
12 others as well, to see if there's some other
13 resolution, some mitigation that would be
14 effective. And I assume that would be to set
15 some finite period of time to work and come
16 back and report back to us if there were some
17 alternate design or some trade-off of other
18 special lands being protected or something as
19 a result, as a way of balancing out the
20 intrusion to Willard Pond. Is that something
21 that people are interested enough in the
22 concept to explore any of the details? Ms.
23 Lyons.

24 MS. LYONS: It's fairly

[DELIBERATIONS]

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1 open-ended, and I'm not sure how you would
2 value it.

3 CHAIRMAN IGNATIUS: Ms. Bailey.

4 MS. BAILEY: I agree that it
5 sounds like it's fairly open-ended. And, you
6 know, I was thinking in terms of giving them 60
7 days. I think there's general agreement
8 that -- well, I think, that the biggest
9 aesthetic impact is on Willard Pond. And the
10 Audubon Society may never be able to agree, if
11 this project is built, that anything could
12 offset that impact. But what I was thinking
13 is, maybe there's something else that is --
14 that would offset the aesthetic impact. I
15 don't think the sound is going to be that loud,
16 and it's probably not going to be audible all
17 the time at Willard Pond. And personally, from
18 the visual pictures, I think it's sort of
19 peaceful. So I don't know if Audubon could
20 ever imagine any scenario or any trade that
21 would make them feel comfortable that what this
22 project would do to Willard Pond would be
23 worthwhile. And maybe it's just a last-ditch
24 effort. But I thought, you know, maybe we

[DELIBERATIONS]

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1 could allow them to do that, because they're
2 the ones, I mean, they know more about this
3 than we do.

4 CHAIRMAN IGNATIUS: Dr.
5 Boisvert.

6 DR. BOISVERT: As I think about
7 it, I'm concerned about us handing over our
8 decision authority to a small group of people,
9 relatively speaking, who have a very
10 specific -- and we're agreeing with their
11 specific objectives. But it almost seems like
12 we're sending someone in to negotiate with no
13 leverage of their own. I don't know that
14 that's fair.

15 But more to the point, this
16 Committee has been assembled of individuals
17 to represent various interests across the
18 state, and we're supposed to bring to the
19 table our perspectives, our expertise, our
20 judgment, and we're supposed to be
21 representative in some sense, and I think the
22 burden is on us. And I agree. I'd like to
23 think of some way to mitigate it. But,
24 although I have a vivid imagination, I

[DELIBERATIONS]

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1 don't -- I can't come up with something. And
2 I think it would be quite possibly extending
3 out the decision process for a time, definite
4 or indefinite, that would be quite possibly
5 to no improvement. I'll confess that coming
6 to these hearings is not my favorite thing to
7 do, but it's a responsibility. I take it
8 seriously. I feel that we need to discharge
9 the responsibilities given to us under the
10 statute to represent various perspectives.

11 MS. BAILEY: Could I respond to
12 that?

13 CHAIRMAN IGNATIUS: Please.

14 MS. BAILEY: Because you say you
15 take this responsibility very seriously, so
16 you're not going to abdicate it. I take this
17 responsibility very seriously as well. And I
18 think there are a lot of benefits to the
19 project. And I don't think by giving somebody
20 with more expertise than us an opportunity to
21 see if there's any way that they think it could
22 be mitigated would be abdicating our
23 responsibility. I agree, there's not a lot of
24 leverage. The Audubon Society can, in my idea,

[DELIBERATIONS]

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1 I guess could say, no, there's nothing that
2 could mitigate this. But our decision would be
3 that there's a significant aesthetic impact,
4 and so if that can't be mitigated, then the
5 project is denied. We're not abdicating that
6 decision. Thank you.

7 CHAIRMAN IGNATIUS: Mr. Dupee.

8 MR. DUPEE: If I was half as
9 eloquent as the penultimate speaker, I would
10 have said what he said, but just not as well.

11 I recognize your point, Kate,
12 is well taken, that it's good for the
13 Committee to reach out for expertise. And I
14 think we try really hard to do that. But I
15 agree with Dr. Boisvert. I think all the
16 parties have had a chance to speak. We've
17 heard the witnesses. We've spent hours
18 listening to them. We had the Audubon folks
19 on the stand here, in that chair over
20 there -- or that table over there. We asked
21 them the question: Could it be mitigated?
22 And the answer, indeed, was, no, they felt it
23 could not be. So, as you point out, if we
24 know what their position has been, why would

[DELIBERATIONS]

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1 we want to extend it out 60 days and sort of
2 bring the Applicant along on this trip, when
3 we really don't believe there's a reason to
4 think they're going to be successful?

5 CHAIRMAN IGNATIUS: Others?

6 Mr. Stewart.

7 DIR. STEWART: I'm kind of
8 hearing, in terms of the others, that there's
9 two types of aesthetic adverse effects, if you
10 will. And I may be oversimplifying this. But
11 it seems like I've heard some of the board --
12 or the Committee say that it's about Willard
13 Pond and the turbines that are visible from
14 Willard Pond, and then there's the rest of
15 them, the rest of the turbines. So it seems
16 like the Committee's got to decide which of
17 those. The only way mitigation with Audubon is
18 worth discussing is if it's about the Willard
19 Pond visible turbines, and the others are
20 considered acceptable. So I think that's --
21 I'm just suggesting that that's a point of
22 decision before we, you know, turn the thing
23 over for sort of negotiation between the
24 Applicant and Audubon.

[DELIBERATIONS]

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1 CHAIRMAN IGNATIUS: Ms. Lyons.

2 MS. LYONS: And to follow up
3 with what Harry was saying, I'm not convinced
4 it's just Willard Pond. We've heard a lot of
5 testimony that there's going to be an impact on
6 Willard Pond, but I'm still contending that
7 it's part of a larger community. Willard Pond
8 is part of that larger community. It may have
9 perhaps a plus sign against it. But I think,
10 still, we're talking about the whole community
11 having -- being adversely impacted or affected.

12 CHAIRMAN IGNATIUS: That's
13 certainly my view as well, that it wasn't
14 solely Willard Pond that I was concerned about.
15 Where do other people come out? Is there
16 anyone's whose view is that, in reaching a
17 conclusion of undue adverse effect on
18 aesthetics, it's solely in the context of
19 Willard Pond?

20 MR. DUPEE: Could you repeat the
21 question, Madam Chair?

22 CHAIRMAN IGNATIUS: Is the
23 concern, for those who have found undue adverse
24 effect, is it solely related to the impact on

[DELIBERATIONS]

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1 Willard Pond? Mr. Dupee.

2 MR. DUPEE: I think in my case I
3 was able to make the logical argument more
4 convincingly because I knew that people who
5 went to Willard Pond went there with a specific
6 expectation. And we know that beauty is in the
7 eye of the beholder. They're going there
8 because they're going to see a wild place. So
9 that expectation is there. Does that say
10 logically that's the only concern? It's
11 certainly the one I think I could reasonably
12 defend.

13 CHAIRMAN IGNATIUS: All right.
14 Others? Is there anyone else who is of the
15 view that the adverse impact is solely related
16 to Willard Pond? Give me a hand if that's your
17 view.

18 (No verbal response)

19 CHAIRMAN IGNATIUS: All right.
20 It doesn't appear that anyone else is
21 signifying that.

22 And I know, Mr. Stewart, you
23 haven't reached the conclusion that there is
24 an adverse impact. I don't want to get that

[DELIBERATIONS]

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1 confused.

2 MS. BAILEY: Can I just clarify
3 my position?

4 CHAIRMAN IGNATIUS: Yes, please.

5 MS. BAILEY: My position isn't
6 that it's solely Willard Pond. I think it's
7 clearly the biggest area impacted. So I'm sort
8 of with Mr. Dupee, I think. And, you know, if
9 anybody thinks that my idea's worth talking
10 about, we could expand the group that they have
11 to negotiate with. But I'm getting the sense
12 that, I know there's at least four people, I
13 think, who think that there's no mitigation
14 that could work, for one reason or another.
15 So, you know -- and maybe there's somebody else
16 who thinks no mitigation could work. And
17 there's a couple people I'm not really clear on
18 their position. So I'm going to shut up.

19 CHAIRMAN IGNATIUS: Don't do
20 that.

21 Well, we can -- I'm trying to
22 make sure everybody's had a chance to say
23 what they want to say and not start taking
24 votes on things until we've really fleshed it

[DELIBERATIONS]

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1 out, so that no one feels locked into
2 anything before they're ready or that each of
3 us haven't heard from each other, because
4 that is the whole point here, is that we're
5 trying to gain knowledge by hearing each
6 other's thinking. Ms. Lyons.

7 MS. LYONS: Being new to this
8 committee, is there a way for us to negotiate
9 with the Applicant on this particular issue?

10 CHAIRMAN IGNATIUS: Not
11 negotiate. I mean, I think there are ways that
12 you could enter a new phase and say, before
13 there's issuance of an order, we want the
14 Applicant, or whoever we might be asking of, to
15 go back and consider new things and report back
16 to us, having heard all of the deliberations.
17 That's not the norm, but I think there's
18 nothing that would prohibit that, except that
19 we have the difficulty of timing and that we're
20 already over our deadline. So maybe a little
21 more isn't that big a deal. I don't know. I
22 don't mean to be glib about it. But the
23 Applicant has been the one who's been held up
24 and, under the statute, was entitled to a

1 decision under a time period, and we have
2 extended that because of the difficulty of
3 getting through the full proceedings. So I
4 think we need to be mindful of the delay of
5 suspending things and going back and seeing if
6 the Applicant wants to come back with a new
7 proposal.

8 If there were -- if that were
9 the case, then what? Then I think you go
10 back into new evidentiary hearings. I guess
11 it would depend on what the new information
12 might be.

13 MS. LYONS: But with the
14 condition --

15 CHAIRMAN IGNATIUS: But if it's
16 anything more than something that's very
17 straightforward and fairly ministerial in how
18 it plays out, I think you go back to a further
19 adjudicative process, and then we are way
20 beyond our statutory deadlines. So I think it
21 gets murkier and murkier. I'm sorry. I cut
22 you off.

23 MS. LYONS: No, I cut you off.
24 Well, we're conditioning other agencies to

1 do -- to follow up on things. We're not
2 conditioning. We're asking other agencies to
3 follow up on things. Is there some way for us
4 to condition that? It just -- we haven't heard
5 from the Applicant. They're hearing from us,
6 but we haven't heard from them. I think it's a
7 little unfair. I think there's probably some
8 good ideas out there that we're not hearing.
9 So, not to stop the proceedings, but just to
10 have something that then moves it forward in a
11 way that gets negotiated.

12 CHAIRMAN IGNATIUS: Yeah, I
13 think that's a good question for counsel. I'll
14 hand it over.

15 MR. IACOPINO: I think the
16 difficulty with what you're proposing is that
17 there's due process rights not just for the
18 Applicant, but for every party in the room.
19 And so under either iteration, whether the
20 Committee somehow negotiated something -- which
21 we can't, quite frankly, because we have to be
22 neutral, and you have to adjudicate on what
23 comes before you -- but even the delegation of
24 negotiating something to a state agency like

1 this, you can't leave out the rest of the
2 parties. They all have due process rights.
3 And what would eventually happen is, let's say
4 something was negotiated through a state
5 agency. They would be coming back here. I
6 don't know with how much of the -- they'd be
7 coming back here for the Committee to then
8 consider that result or that negotiation. And
9 how much of what has already gone on in this
10 docket might need to be redone, as a practical
11 matter, is a problem, because you're talking
12 different -- likely a different financial
13 scenario. You're talking about different --
14 obviously, hoping it would be a different
15 visual impact scenario. It may be different
16 impact on wildlife. Essentially, you're
17 opening the door for -- well, open -- you're
18 going to have to hear all of the parties with
19 respect to all of the issues that are at play
20 in any proceeding before the Committee. And
21 that's the practical difficulty of delegating
22 something like negotiating the visual impact.

23 The delegation that the
24 Committee usually does is really to monitor

[DELIBERATIONS]

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1 conditions that we impose and then to enforce
2 in certain situations. Not to hold hearings,
3 but to enforce. So, for instance: We impose
4 on Mr. Stewart's division to monitor the
5 wetlands. So if they make a boo-boo up there
6 in their construction and they somehow
7 violate the terms of the wetlands permit, the
8 wetlands division is going to take care of
9 that. So we don't have to come back here
10 because they failed to repair, you know --
11 excuse me, Harry -- puddles they made or
12 something on the site, which is a lot
13 different than negotiating a way -- or having
14 a state agency essentially negotiate a
15 fundamental finding that the Committee is
16 charged with making. And that's the big
17 difference. So that's just from a legal
18 standpoint.

19 CHAIRMAN IGNATIUS: I think we
20 are probably at a point of needing to take a
21 show of hands on where people come down. I'm
22 not sure there's anything more we can do,
23 really, in airing ideas. It's really time to
24 sort of make some choices.

1 There is one factual thing I
2 want to correct before I forget about it. I
3 referred to the Granite Reliable towers as
4 being the same height as what we were seeing
5 here, and they actually are not as tall.
6 These are taller. What's been proposed is
7 taller than Granite Reliable. So I misspoke
8 when I said that. I think they're both
9 3-megawatt generators, but the towers in
10 Granite Reliable are just over 400 feet when
11 you include the blade tip, and here it's just
12 under 500 feet when you include the blade
13 tip. So these are significantly higher.

14 So, of the choices that we're
15 looking at right now -- and we can do these
16 in any order. I guess if we were to take up,
17 Ms. Bailey, your thoughts -- and I appreciate
18 you trying to be creative here to think about
19 how to find a meaningful way out of this --
20 those who would be interested in trying to
21 develop a mechanism for a limited period of
22 time for the Applicant and Audubon Society to
23 propose some mitigation measure that would
24 ameliorate the impacts or would be, in

[DELIBERATIONS]

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1 balance, appropriate, given the impacts to
2 the Willard Pond sanctuary area, those who
3 are interested in trying to pursue that kind
4 of a mechanism, please give me a show of
5 hands.

6 (Subcommittee members indicating by
7 show of hands.)

8 CHAIRMAN IGNATIUS: Mr. Stewart,
9 Mr. Green, Mr. Simpkins and Ms. Bailey.

10 Those who are not thinking
11 that's an appropriate sort of condition to
12 pursue...

13 (Subcommittee members indicating by
14 show of hands.)

15 CHAIRMAN IGNATIUS: Dr.
16 Boisvert, Mr. Dupee, Mr. Robinson and myself.

17 Well, that's a good number.
18 We have a four and four. Ms. Lyons?

19 MS. LYONS: I didn't vote
20 because I'm waiting to hear what the other
21 proposals are.

22 CHAIRMAN IGNATIUS: Okay. And I
23 must have counted you.

24 MS. LYONS: No, there's nine of

[DELIBERATIONS]

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1 us.

2 CHAIRMAN IGNATIUS: Oh, no.

3 We've got nine people.

4 MS. BAILEY: We did the other
5 day.

6 CHAIRMAN IGNATIUS: That's
7 right. We started out with eight before.

8 So, yeah, other ideas. One is
9 to look for a mechanism to create a financial
10 solution, some way of generating a value and
11 a pot of money for preservation of some other
12 high-value property, which I think is the
13 kind of thing that, Ms. Lyons, you were
14 talking about as a possibility. We hadn't
15 gotten into details yet, but the concept.

16 And, Mr. Dupee, you asked, "Is
17 that a possibility?" And you weren't sure in
18 your own mind it was. But that's the kind of
19 thing you do in some other sorts of cases.

20 So, a show of hands of those
21 who think that that's worth developing
22 details around what a condition like that
23 might look that. And before we vote, if you
24 have any questions, because we haven't

[DELIBERATIONS]

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1 discussed it much -- Mr. Dupee.

2 MR. DUPEE: So, are we -- is the
3 question whether or not we want to pursue this
4 road, or is the question that we want to
5 consider whether we want to pursue this road?
6 In other words you're going to flesh out, as
7 Ms. Lyons pointed out, what actually is on the
8 table here, what could possibly be --

9 (Court Reporter interjects.)

10 MR. DUPEE: I just wanted to
11 clarify in my mind which of two possibilities
12 we're voting on here. Are we voting for the
13 intention of determining that we are going to
14 go forward and seek this type of mitigation
15 option, or is the vote to decide whether we
16 wish to consider proceeding on this type of
17 mitigation option? Because if it's the latter,
18 I could probably be in favor in that. But I
19 need to know more details on what we're
20 proposing to do. If it's simply to move
21 forward, not having thought about that, I think
22 I'd be in Ms. Lyons' camp and want to know
23 more.

24 CHAIRMAN IGNATIUS: That's fair.

1 I think I probably jumped a little too soon.
2 So let's first just explore what it might --
3 something like that might look like or how it
4 might be carried out. And if that leads to
5 feeling that it might be viable, then we can
6 take people's views on whether it's worth
7 continuing to develop. I mean, I think it was
8 a very broad concept that you began with, Ms.
9 Lyons, of saying, well, sometimes there's ways
10 you can solve things by providing money for
11 some other high-value lands, that in the long
12 run we'd be better off with that other land
13 being protected, even though it is at the
14 expense of disturbance at Willard Pond. Is
15 that right?

16 MS. LYONS: Yes.

17 CHAIRMAN IGNATIUS: Okay. And
18 not just Willard Pond. I know that was your
19 comment, that it was more than just that.

20 So that's the broad concept of
21 how that might play out. And where all this
22 cash would come from and who might be
23 involved in looking for alternate sites and
24 what kind of time limits you'd put on it,

1 those are all details that we'd have to sort
2 out. So just -- you know, it's a very broad
3 conceptual sense.

4 What are people's responses to
5 that sort of idea? Ms. Bailey.

6 MS. BAILEY: Perhaps I wasn't
7 very clear, but that was one of the solutions
8 that I thought might be negotiated with the
9 Audubon Society. And maybe we could make -- I
10 don't know legally if this works, but maybe we
11 could have the requirement be that they
12 negotiate with other parties as well, and then
13 I think that we might have to put some limits
14 on that, about what they can do. You know,
15 maybe they can take towers out, but they can't
16 move them around because we'd have to start
17 over. That kind of thing. But cash for other
18 high-value property was one of the things I had
19 in mind when I suggested that they talk to the
20 Audubon Society. Another idea might be to
21 eliminate two of the turbines. I don't know.
22 But I think that was one of the tools in the
23 toolbox that I had anticipated in this: Is
24 there anything that whichever appropriate party

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1 should deal with this issue could come up with
2 that would be a fair trade for the impact?

3 CHAIRMAN IGNATIUS: Mr. Dupee.

4 MR. DUPEE: Thank you, Madam
5 Chair. So how would we structure that? Would
6 we be telling the two parties to go out there
7 and come back without any sort of prejudice?
8 Or do we say that the Committee now is, on
9 vote, maybe not likely favoring Willard Pond
10 being changed; therefore, if the Audubon
11 Society chooses not to do anything, that well
12 might be our decision? How do we frame the
13 issue for the parties so they have a sense of
14 what their boundaries are and what the
15 Committee's really asking them to do? Because
16 it almost sounds to me like we're saying, Well,
17 if you don't want to negotiate with them, you
18 don't. End of story. We'd know that in a day;
19 right? If they decided they didn't want to
20 negotiate, then that would be that. But if
21 there's further things I'm missing that other
22 people think would be helpful to structure, I
23 want to hear about it.

24 CHAIRMAN IGNATIUS: Reaction?

1 Mr. Robinson.

2 MR. ROBINSON: Yeah, I'm just
3 thinking out loud here. Perhaps there's a way
4 to put together a committee of the local
5 conservation folks in the area. I mean, we've
6 got the Town of Antrim Conservation Commission,
7 Stoddard Conservation Commission, the Harris
8 Center and Audubon. Perhaps those four groups
9 could get together and see if there are some
10 lands or there's an alternative to that they
11 feel comfortable with -- they're the ones that
12 live there. They're the ones that are there.
13 And if they could come up with a proposal, that
14 they could sit down with the Applicant or what
15 have you and see if there's something they
16 could do that they would be comfortable living
17 with, because this is in their backyard. I'm
18 sure they've already thought about it, so it
19 shouldn't -- I wouldn't think it would take
20 that long.

21 MS. BAILEY: They may have
22 thought about it, but not knowing what we were
23 thinking. Now they know what we're thinking,
24 and so I think that informs the discussion.

[DELIBERATIONS]

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1 CHAIRMAN IGNATIUS: Others? Dr.
2 Boisvert or --

3 DR. BOISVERT: He wanted to
4 speak. Let him go first.

5 CHAIRMAN IGNATIUS: Okay.
6 Mr. Stewart.

7 DIR. STEWART: I continue to
8 have a -- I agree with the concept. I have the
9 concern that the Committee is going to have to
10 generally buy in to the idea that some majority
11 portion of these towers are going to stay. You
12 know, in other words, that if we go through
13 this negotiation, whatever it is, there needs
14 to be a clear endpoint that has an affirmative
15 for the project or we're wasting our time. And
16 that's just to lay it out. So if the Committee
17 can't get its hands around this aesthetic issue
18 and compensation for that, then the negotiation
19 doesn't mean anything. And so I'm not sure how
20 to get that on the record. But, you know,
21 somehow as we're discussing this, that has to
22 kind of come out of this, or else we're just
23 kind of stalling.

24 CHAIRMAN IGNATIUS: Ms. Lyons.

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1 MS. LYONS: And as I said
2 earlier, I'm willing to delay whatever that
3 mitigation is. It doesn't have to be
4 immediate. It could be something that's built
5 up over time. So it doesn't have to be today,
6 but it becomes a percent of something over
7 time, and you have a reserve that's being built
8 up that can be thoughtfully done over time.

9 CHAIRMAN IGNATIUS: That's in
10 the actual completion of any mitigation
11 measures. But you would need a short period of
12 time for resolution of what those measures are
13 going to be; right?

14 MS. LYONS: Right. So as I said
15 earlier, I think there should be a time put on
16 it, sort of what Harry was alluding to, that we
17 take off the table in the negotiation removing
18 turbines, changing size, changing locations.
19 Just accepting that fact and get away from it,
20 but then say, "Okay, now knowing that all these
21 things are in place, what is acceptable
22 mitigation?" And I think we have to at least
23 take something off that table. I think that's
24 what we take off, saying we're going to keep

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1 them in the alignment they are, the size they
2 are, the number that there are, and knowing
3 that, what is acceptable mitigation?

4 CHAIRMAN IGNATIUS: Ms. Bailey.

5 MS. BAILEY: I agree with all
6 those conditions, except I think it would be
7 okay if they wanted to remove some turbines, if
8 everybody agreed. Because we would all agree
9 that that would improve the visual impact, if
10 they removed turbines, I think. You know, if
11 the group who we put together said, "We could
12 live with this if there were eight turbines
13 instead of ten, and the eight stayed where they
14 were" --

15 MS. LYONS: I'm not sure how
16 that's going to affect the certification
17 process. I mean, you're going to have
18 reduction in scope. We've certified -- given a
19 certificate for 10, now decreased to eight -- I
20 mean, if we're trying to get out of this
21 vicious loop here, then I think there's some
22 things we have to set on the table as being
23 absolute.

24 MS. BAILEY: Well, we could say

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1 up to 10 at the locations proposed.

2 CHAIRMAN IGNATIUS: Well, I
3 think the conflict here is that, when you're
4 trying to reach an endpoint, we're also trying
5 to be open to negotiations for something, an
6 alternative approach, which almost means making
7 a new filing and reconsidering -- not
8 reconsidering, but considering anew some of the
9 evidence because of changed circumstances.
10 That's my concern just from a process point of
11 view. Some of the facts laid out would remain
12 unchanged, but some might be changed, depending
13 on whether the road is cut differently or the
14 configuration is different or the views or the
15 wetlands impacted -- I mean, anytime you start
16 changing it, we're almost thinking of
17 withdrawing this proposal and starting over
18 again. And I don't know if that's what
19 anybody's interested in.

20 I think if there's anything,
21 Counsel, that you have any views on where we
22 are legally and ways to move forward --

23 DIR. STEWART: Can I throw
24 some --

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1 CHAIRMAN IGNATIUS: Yes, Mr.
2 Stewart.

3 DIR. STEWART: The scopes of
4 these things over various projects have changed
5 periodically. And, you know, a shrinkage of
6 scope from a maximum on the certificate is a
7 very -- I think it's probably viable. I mean,
8 I can think of the AES, where there was a big
9 oil tank that was going to be installed, and
10 they came back and said, "We don't need it
11 anymore." So the Committee agreed that that
12 oil tank, which was in lieu of the case with
13 the natural gas supply, was shot for a while.
14 So the scope of a project, I think, can shrink.
15 Probably not grow, but it could shrink after
16 the fact.

17 CHAIRMAN IGNATIUS: I'm feeling
18 like we're in an unusual situation, and I want
19 to be sure that whatever we do, for or against,
20 up or down, that it's defensible legally and
21 holds up to challenge. And the more creative
22 we get, the more risky we get, even though
23 we're all doing it for the best of reasons.

24 So, is there anything that

1 you've thought about on that to add to the
2 discussion? There may not be, but...

3 MR. IACOPINO: Being a lawyer,
4 my concerns are mostly process-oriented as
5 well. And based upon what I've been hearing
6 about, sort of whoever the ultimate group is
7 that goes out and essentially meets and
8 determines if they can come back with some
9 mitigation plan that might satisfy the
10 Committee, just opens up all kinds of process
11 issues for me as a lawyer. Again, it's not --
12 the Applicant is not the only party to the
13 proceedings. All of the parties are entitled
14 to due process. The practicalities of what you
15 suggest, given the broad mandate, the broad
16 landscape that this Committee has to cover,
17 just seems as a practical matter
18 insurmountable, because, as the Chair said, in
19 a way, you're almost going to have to re-
20 litigate the whole case before the Committee.
21 Because if you remove turbines, if you change
22 turbines, if you create a mitigation fund of
23 some sort, all of that reopens issues that the
24 other parties have the right to weigh in on

1 with respect to all different issues: Effect
2 on the natural environment; is the mitigation
3 enough; effect on views; effect on every aspect
4 of your very broad statute.

5 So, I see significant process
6 problems with those sorts of proposals. And
7 other than process problems, I'm not going to
8 say anything else because it's not my role.
9 So...

10 CHAIRMAN IGNATIUS: Thank you.
11 Do we want to try again, then, with a sort of
12 show of hands on which direction we should be
13 going? Try to create an opportunity for the
14 Applicant and some number of parties to go back
15 and see if there's any alternatives to propose,
16 or to abandon that effort and simply vote up or
17 down on the aesthetics issue and whether to --
18 which would really be critical to whether a
19 certificate could issue? Are you ready for
20 sort of a show of hands on that? All right.
21 That's a yes and a no?

22 DR. BOISVERT: I'm unsure. Give
23 me a motion or proposal and let me think about
24 it. I find things, in contrary to almost all

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1 of the rest of the hearing, as going very
2 quickly. And, you know, we're deciding in a
3 few minutes should it be one organization,
4 three, four organizations to negotiate outside
5 the walls and so forth. And I'm thinking:
6 What are we not thinking about? So I'm
7 struggling to be thoughtful and prepared.

8 CHAIRMAN IGNATIUS: I appreciate
9 that. I guess I was thinking we were one step
10 away from that. If there is a majority that
11 thinks that sort of negotiation effort, going
12 back -- some number of parties going back to
13 the drawing board for a period of time and
14 reporting back if they have a new proposal, if
15 a majority thinks that is not worth pursuing,
16 then that's the end of the discussion. If
17 there is a majority that thinks it is worth
18 pursuing, then I think we need more discussion
19 of what that might look like, time period,
20 number of parties, how to convey what to who
21 and that sort of thing. So, I agree with you.
22 I think I was one step before we got there.

23 So if that's the decision
24 point now, let's do the -- are people of the

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1 view that it is not appropriate to create
2 this sort of "go back and see if there's any
3 alternate approach," and simply make a
4 decision based on what's been submitted to
5 us, the proposal that the Applicant has made,
6 and not look for further mitigation efforts
7 on aesthetics? All right? Show of hands of
8 those who are at that point, where they
9 think: Just make a decision based on what's
10 been filed regarding aesthetics and not seek
11 any further alternate proposals from anyone.
12 Is that clear?

13 So, those who are of that
14 mind, that this is it, take it on the basis
15 of what's been filed and no further
16 mitigation discussion on aesthetics, show of
17 hands who are in favor of that.

18 (Subcommittee members indicating by
19 show of hands.)

20 CHAIRMAN IGNATIUS: Looks like I
21 have -- is it four? Ms. Lyons, Mr. Simpkins,
22 Ms. Bailey, myself, Mr. Dupee and Dr. Boisvert.

23 MR. IACOPINO: Did you just
24 vote?

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1 DR. BOISVERT: Yeah.

2 CHAIRMAN IGNATIUS: Those who
3 think it is worth continuing discussing a
4 mechanism to go back and see if parties,
5 however yet to be defined, could develop some
6 sort of alternate proposal, show of hands.

7 (Subcommittee members indicating by
8 show of hands.)

9 CHAIRMAN IGNATIUS: Mr. Green,
10 Mr. Stewart, Mr. Robinson.

11 MS. BAILEY: Can I explain
12 myself?

13 CHAIRMAN IGNATIUS: Sure.

14 MS. BAILEY: I'm a
15 problem-solver. And I've been a problem-solver
16 at the Commission for a long time, and I've run
17 into process problems before. So I changed my
18 mind, because what I heard Mr. Iacopino counsel
19 us is that it's not really fair to everybody to
20 go out and try to change this in some way. So
21 I think that it's really hard for me to give up
22 on problem-solving. But, you know, I was
23 thinking, you know, just as an example: If we
24 get rid of two turbines, and that pleases

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1 everybody who is in the negotiating of the
2 visual impact, that may have an impact on the
3 overall benefits of the project in somebody
4 else's mind who wasn't part of that visual
5 impact discussion. So that's an example, I
6 think, of where somebody's process might be --
7 it might be unfair to somebody. So that's why
8 I changed my mind.

9 CHAIRMAN IGNATIUS: All right.
10 So if the majority is of the view that the
11 project as proposed creates undue adverse
12 impacts, and there is no mitigation that people
13 can come up with that would resolve or cure
14 that problem, is the sense I got from those
15 somewhat tortured votes -- but I think it's
16 worth being certain of that and asking people
17 once again if we're -- based on what we've had
18 submitted to us by the Applicant, and any
19 further amendments that were agreed to or
20 conditions that we've decided on over the last
21 couple of days, do you believe that the
22 proposal, as filed and with those further
23 changes, constitutes an adverse -- undue
24 adverse effect on aesthetics?

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1 MR. IACOPINO: Would be
2 unreasonable adverse --

3 CHAIRMAN IGNATIUS: All right.
4 Unreasonable adverse impact on aesthetics.
5 Show of hands those who find that it does
6 create an unreasonable adverse impact on
7 aesthetics.

8 (Subcommittee members indicating by
9 show of hands.)

10 CHAIRMAN IGNATIUS: Looks like
11 eight.

12 And those who do not find it
13 to be that.

14 (Subcommittee member indicating by show
15 of hand.)

16 CHAIRMAN IGNATIUS: Mr. Stewart.

17 So, eight and one. So we have
18 clearly come with a majority vote on that.

19 That being the case, I think we need to --

20 Well, I guess, Mr. Iacopino,
21 let me turn it to you. We have gone through
22 a lot of detail in what certificate
23 conditions would read. But because there is
24 this one issue where we have a majority

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1 finding that it does not meet the standards
2 of the statute, that would mean you could not
3 issue a certificate; correct?

4 MR. IACOPINO: That's correct.
5 But I would recommend that you take a vote, up
6 or down, on the issuance of a certificate.
7 However, if you found that -- you have found
8 that the project does not -- does cause an
9 unreasonable impact on aesthetics. So, having
10 found that, you would obviously have to vote to
11 deny the certificate, or you'd be in violation
12 of the statute. However, there's at least one
13 member who has dissented with respect to that
14 particular view. So you should take a vote, up
15 or down, on the granting or issuance of a
16 certificate.

17 Are you also asking me about
18 what should be -- come out in a written order
19 as well?

20 CHAIRMAN IGNATIUS: I am now.

21 MR. IACOPINO: Okay. I would
22 recommend that you authorize me to write a
23 written order that summarizes all of the
24 deliberations that you have undertaken here and

1 that puts the Committee's votes and views that
2 have been expressed in that order, including
3 this one on aesthetics, so that there is as
4 full a record of the decisions that you have
5 made going forward, because that just is, I
6 think, good form for the purposes of the
7 various parties who may, you know, want to
8 raise those issues in another forum or another
9 venue or on appeal. So that's my
10 recommendation to you. But obviously, I'm
11 going to follow the direction of the Committee.

12 CHAIRMAN IGNATIUS: I think that
13 makes a lot of sense. We could have stopped a
14 couple of days ago when we got to that first
15 vote on aesthetics, and I thought it was
16 important that we continue to work through all
17 of the issues and hear everybody's views and
18 see if they evolved, see if they changed. And
19 also, because people have put an awful lot of
20 time and effort and money and emotion into
21 this -- the Applicant and intervenors and all
22 of the Committee members, and I think we -- I
23 felt we owed it to everyone, ourselves
24 included, to really hash through it. It was

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1 somewhat arbitrary which issue to take up
2 first. If we had put this last, we would have
3 gone through all those details. The fact that
4 it came earlier in the process, although there
5 was no requirement that we keep on going after
6 that decision, I thought it was appropriate to
7 keep on going and give all of us a chance to
8 really think it through. And as you can see,
9 everybody's been going home and kind of stewing
10 over some of these things and rethinking them
11 and coming back and making sure that we're
12 settled in our own minds or clear in our
13 thinking. So I appreciate everyone's
14 willingness to go through it in detail. And I
15 think a written order that goes through all of
16 these issues in detail is appropriate.

17 I do think we ought to, having
18 been through all of it, take a final vote on
19 whether the statute as a whole has been met
20 and whether the issuance of a certificate for
21 this project would be appropriate.

22 Should we do this by a voice
23 vote?

24 MR. IACOPINO: Roll call.

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1 CHAIRMAN IGNATIUS: Roll call?
2 Do we need a formal motion?

3 MR. IACOPINO: I think you
4 should.

5 CHAIRMAN IGNATIUS: All right.
6 So I would entertain a motion on whether to
7 issue a certificate in the Antrim Wind Facility
8 Application. If anyone would make a motion?
9 Mr. Dupee.

10 MR. DUPEE: Madam Chair, I move
11 the Committee recommends to deny a certificate
12 of site and facility to this Applicant based
13 upon the record presented here and in previous
14 days of testimony.

15 CHAIRMAN IGNATIUS: All right.
16 Is there a second?

17 MS. LYONS: I'll second that.

18 CHAIRMAN IGNATIUS: Second by
19 Ms. Lyons.

20 All right. Any other
21 discussion? Are you ready for a vote?
22 Mr. Green.

23 MR. GREEN: Being new to the
24 Committee, I want to make sure I know what I'm

1 voting on. Are we intending to take into
2 account all of the different issues that have
3 been discussed over the last three days when
4 we're doing this voting? Or is it entirely --
5 does one vote down for one particular item mean
6 that the item -- or the whole vote, I guess for
7 all the items, means that we vote against the
8 project?

9 CHAIRMAN IGNATIUS: That's an
10 excellent clarifying question.

11 Mr. Iacopino, do you have the
12 statute and sort of read how it's structured,
13 what the findings are that we're required to
14 make?

15 MR. IACOPINO: Yes, I will do
16 that. It's R.S.A. 162-H:16,IV, which states,
17 "The Site Evaluation Committee, after having
18 considered all [sic] available alternatives and
19 fully reviewed the environmental impact of the
20 site or route, and other relevant factors
21 bearing on whether the objectives of this
22 chapter would be best served by the issuance of
23 the certificate, must find that the site and
24 facility: (a) Applicant has adequate

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1 financial, technical and managerial capability
2 to assure construction and operation of the
3 facility in continuing compliance with the
4 terms and conditions of the certificate; (b)
5 will not unduly interfere with the orderly
6 development of the region, with due
7 consideration having been given to the views of
8 municipal and regional planning commissions and
9 municipal governing bodies; (c) will not have
10 an unreasonable adverse effect on aesthetics,
11 historic sites, air and water quality, the
12 natural environment, and public health and
13 safety."

14 CHAIRMAN IGNATIUS: So it's all
15 of those, not just on balance after weighing
16 all of those, but each of those items that you
17 read have to be found, not to be violating.

18 MR. IACOPINO: That is my
19 interpretation of the statute.

20 CHAIRMAN IGNATIUS: So there is
21 a motion to deny a certificate of site and
22 facility for Antrim Wind Energy made by Mr.
23 Dupee, seconded by Ms. Lyons. Are you ready
24 for a vote?

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1 All right. All those in
2 support of the motion to deny a
3 certificate -- oh, that's right. I guess
4 we'll do a roll call.

5 Mr. Iacopino, do you want to
6 call out names?

7 MR. IACOPINO: Mr. Stewart.

8 DIR. STEWART: No.

9 MR. IACOPINO: Ms. Lyons.

10 MS. LYONS: No.

11 MS. BAILEY: Wait a minute. I'm
12 confused.

13 CHAIRMAN IGNATIUS: This is a
14 motion to deny a certificate. So, "No" means
15 denial is the wrong answer. If you're in favor
16 of it being denied, the answer would be --

17 DIR. STEWART: "Yes" is in favor
18 of denial, and "No" is --

19 MR. IACOPINO: If you vote "Yes"
20 on this motion, you are voting to deny the
21 certificate of site and facility. If you vote
22 "No" on the motion, you are essentially saying
23 you would issue a certificate of site and
24 facility to this Applicant. So I'll start

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1 again.

2 DIR. STEWART: Just to
3 reconfirm, no.

4 MR. IACOPINO: Okay. Ms. Lyons.

5 MS. LYONS: I would debate your
6 second half of that, saying that -- because we
7 don't know what the next motion is, so --

8 CHAIRMAN IGNATIUS: I think
9 that's fair. The comment was that a vote "Yes"
10 would mean to deny a vote. "No" doesn't
11 necessarily mean deny. It may mean something
12 yet to occur.

13 MS. LYONS: My original vote
14 stands. No.

15 MR. IACOPINO: Mr. Simpkins.

16 MR. SIMPKINS: Yes.

17 MR. IACOPINO: Mr. Robinson.

18 MR. ROBINSON: Yes.

19 MR. IACOPINO: Ms. Bailey.

20 MS. BAILEY: Yes.

21 MR. IACOPINO: Mr. Dupee.

22 MR. DUPEE: Yes.

23 MR. IACOPINO: Mr. Green.

24 MR. GREEN: No.

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1 MR. IACOPINO: Mr. Boisvert.

2 DR. BOISVERT: Yes.

3 MR. IACOPINO: Chair.

4 CHAIRMAN IGNATIUS: Yes.

5 MR. IACOPINO: The "ayes" have
6 it.

7 CHAIRMAN IGNATIUS: So, that was
8 six in support of denial and three opposed to
9 the denial.

10 I think an order laying out
11 all of the discussion and the determinations
12 made through the deliberations is
13 appropriate. There may be a few loose ends
14 that we haven't picked up.

15 Yeah, one of them, one of the
16 issues is a legal one that the statute
17 doesn't require us to address but was present
18 in this case, and that's the question of
19 subdivision and the authority of the Site
20 Evaluation and the authority of the local
21 planning authorities. It's my view that if
22 we are not issuing a certificate in this
23 case, we need not take up that legal issue.
24 It's not a required finding under the

1 statute. It's kind of a general principle in
2 the law that you don't make legal rulings on
3 things that aren't necessary, particularly in
4 a case of first impression. And so my
5 recommendation is that we not address that
6 issue.

7 Any other questions that we --
8 I think one that we said we would come back
9 to later this afternoon and have not is on
10 shadow flicker and whether to require any
11 sort of mitigation. We were uncertain that
12 there was anything appropriate, anyway. And
13 given that we did not find that the shadow
14 flicker was an undue impact, I guess it's my
15 thought that we need not develop a condition
16 on that matter. But we did leave that open.

17 So is there anyone who would
18 like to have placed in the draft -- in the
19 order what any sort of accommodation would be
20 on shadow flicker?

21 MS. BAILEY: I don't think it's
22 necessary.

23 CHAIRMAN IGNATIUS: Okay.
24 Doesn't appear that anyone would. All right.

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1 All right. Unless there's
2 anything else that anyone has to bring back,
3 any loose ends, I want to thank all of my
4 colleagues here for extremely hard work and
5 thoughtful consideration. There is no
6 question that this is something that people
7 took very seriously and tried to do what's
8 right under the statute, what's right given
9 the evidence, what's fair and what gives full
10 consideration of all of the very highly
11 competing principles that were being
12 presented to us. So I thank you so much for
13 how seriously you took it, how hard you've
14 worked and have you stay patient through some
15 complicated negotiations.

16 I also want to thank the
17 Applicant for being willing to take the
18 concerns brought forward by parties very
19 seriously, respond, accommodate in ways that
20 could be done, be understanding of the
21 complicated scheduling that we had that made
22 it kind of a nightmare for everybody, and
23 still keep at it day after day when it got
24 pretty complex.

1 And I want to thank the
2 parties for tremendous involvement. It gives
3 us so much more information when we have
4 people who are actively engaged and
5 responsibly engaged. And I think it's a
6 great thing when we have people who may have
7 strong opinions, but they're here being as
8 reasonable as they possibly can be. They're
9 here to help and not cause trouble, and to
10 make a stronger record rather than a
11 fractured record. And there's been times
12 where people's motives are to blow things
13 apart. I didn't feel that was the case at
14 all, that it was -- you were here to help us
15 understand your point of view and another way
16 of looking at things in some cases. And when
17 you thought appropriate to agree with some of
18 the things the Applicant was asking for, you
19 weren't afraid to do that. And that was --
20 that helps a lot. So, thank you to everyone.
21 And I guess we will await an order.

22 Any other final wrap-up things
23 that counsel wants to remind us of?

24 MR. IACOPINO: All I was going

[DELIBERATIONS]

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1 to say is I will issue -- write an order for
2 you all to review and sign. Once that order is
3 publicly issued, the process for appeal is
4 pursuant to R.S.A. 541. A motion for rehearing
5 must occur within 30 days after the written
6 decision has been made, and then the statute
7 governs how that motion is handled and how the
8 balance of the appellate process is handled for
9 those parties who are interested in it. There
10 will also be at the end of the order a written
11 summary of the process for appeal or rehearing.

12 CHAIRMAN IGNATIUS: Thank you.
13 Then if there's nothing further, we are
14 adjourned.

15 (Whereupon the Deliberations Day 3
16 Afternoon Session adjourned at 3:23
17 p.m.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public
of the State of New Hampshire, do hereby
certify that the foregoing is a true and
accurate transcript of my stenographic
notes of these proceedings taken at the
place and on the date hereinbefore set
forth, to the best of my skill and
ability under the conditions present at
the time.

I further certify that I am neither
attorney or counsel for, nor related to or
employed by any of the parties to the
action; and further, that I am not a
relative or employee of any attorney or
counsel employed in this case, nor am I
financially interested in this action.

Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)

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