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February 4, 2010

BY EMAIL AND OVERNIGHT MAIL

Luly Massaro  
Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Blvd.  
Warwick, RI 02888

Re: RIPUC Docket No. 4111

Dear Luly:

Enclosed please find for filing in the above matter an original and nine(9) copies of the Responses of the Town of New Shoreham to Commission Data Requests 1-1 through 1-3, together with an attachment to the Response to Data Request 1-2.

Copies of this filing are being emailed to the service list and a hard copy also is being provided to the Division.

Please date stamp the enclosed duplicate copy of this transmittal letter and return it to me for my files.

Thank you for your assistance.

Sincerely yours,



Alan D. Mandl, Bar No. 6590

Enclosures  
cc: Service List  
Leo Wold

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

\_\_\_\_\_  
IN RE: REVIEW OF PROPOSED )  
TOWN OF NEW SHOREHAM )  
PROJECT PURSUANT TO )  
R.I. GEN. LAWS §39-26.1-7 )  
\_\_\_\_\_ )

DOCKET NO. 4111

**RESPONSES OF THE TOWN OF NEW SHOREHAM TO FIRST SET OF DATA  
REQUESTS OF THE PUBLIC UTILITIES COMMISSION**

- 1.1 Mr. La Capra states in his testimony, “the economics of the cable project are dependent on whether the Block Island Power Company or a successor entity purchases power from the mainland” and “It is not certain at this point that BIPCo or a successor will obtain power from the mainland.”
- a. Is the Town suggesting BIPCo. may never take power from purchase power arrangements with suppliers once connected to the mainland power grid?
  - b. If so, please provide supporting evidence.
  - c. If not, what was the purpose of the statement?

RESPONSE:

- a. No. The Town expects that, as the Commission ordered, BIPCo or its successor will develop its long term supply plans through an IRP. The Town is hopeful that if a cable is constructed to the mainland, it will, in combination with other economic and reliable supply and demand side measures, result in benefits to the island customers. Since there has been no effort in developing an IRP, the Town has not presupposed benefits.
- b. The issues which influence the economics of power from the mainland are the cost of wholesale power, the attainable DSM on the island, the amount of on-island generation needed to maintain reliability, the allocation of the cable costs, the allocation, if any, of the wind farm PPA to the Town, the expected price of diesel fuel and the costs of new local distribution. While there are reasonably accepted projections for the cost of wholesale power and diesel fuel, the rest of the critical inputs to an evaluation of the IRP economics are not now known to the Town.
- c. The purpose of the statement was to highlight the facts that (1) completion of the Town of New Shoreham Project is uncertain at this time and (2) whether BIPCo purchases power from the mainland may depend upon the outcome of an IRP process.

Respondent: Richard La Capra  
Date: February 4, 2010

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- 1-2. Please provide any Minutes of any Town Council Meeting that were not sealed where Deepwater agreed to pay the Town's legal and consultant costs or where the Town Council discussed the arrangement.

RESPONSE: The Town Council minutes of July 6, 2009 are attached. During this meeting Deepwater Wind gave a presentation explaining the project. After the presentation Deepwater Wind responded to the Town's concern about costs the Town would incur in monitoring the project by offering to pay for the Town's expenses within reason. The Town did not formally accept Deepwater's offer but proceeded on the basis of the payment offer.

Respondent: Richard La Capra  
Date: February 4, 2010

RIPUC DOCKET NO. 4111  
ATTACHMENT TO TOWN RESPONSE TO PUC 1-2  
FEBRUARY 4, 2010

**New Shoreham Town Council Meeting**  
**Town Hall, Old Town Road**  
**Monday, July 6, 2009**  
**7:00 p.m.**

**Present:** First Warden Kimberley H. Gaffett, Second Warden Raymond J. Torrey, Council members Richard P. Martin, Peter B. Baute and Kenneth C. Lacoste. Also present were Town Manager Nancy Dodge, Town Solicitor Donald Packer and for the recording of minutes, Deputy Town Clerk Millicent McGinnes.

First Warden Gaffett called the meeting to order at 7:02 p.m.

**Warden's Report**

First Warden Gaffett reported the following:

- The US Fish and Wildlife on island piping plover bio-technician is looking for volunteers to help protect an egged plover nest and provide public education on the beach between Scotch and Mansion from 6:00 a.m. to 6:00 p.m.
- Interstate Navigation is participating in a statewide tourism program sponsored by the RI Economic Development Corporation which offers a \$1.00 discount on round trip tickets.
- The Building Code Standards Commission has recertified Building Official Marc Tillson for the next three years.
- There is a Town Council work session planned for later in the week.
- It was a busy holiday weekend which will be reviewed at the work session.

**Public Input**

Kirk Littlefield Chief of the Fire Department spoke from the audience, stating the Fire Department would like to submit a FEMA grant application to replace the fire barn. Grant writer Mary Jane Balser will work with Nancy Dodge to meet the grant submittal deadline of July 10, 2009. The Town Council will ratify the application at their next meeting. Dr. Baute stated that Chris Warfel is looking into a FEMA grant for solar projects.

**Introduce TNS Police Department Officers**

Ms. Gaffett noted that the Police are currently on the street following up on the busy weekend. An introduction of the Police Department officers will be held at a future meeting.

**Tabled Item:**

**Receive and Consider Letter from Frederick Nelson re: Pesticide/Herbicide Policy**

Ms. Gaffett stated that a letter was received from Frederick Nelson dated June 9, 2009 in support of the use of herbicide 2-4-D.

Ms. Gaffett reviewed the adopted Pesticide Policy, noting that it does not ban any particular products, but provides a process of managing pests with the least possible hazard to people and the environment.

Fred Nelson was present and spoke in favor of using 2-4-D, noting the herbicide is supported by the EPA and numerous studies find it to not be a human carcinogen. Dr. Baute stated that chemicals are not necessarily bad if properly handled and applied. Fred Nelson concurred

Ms. Gaffett stated that she had received letters in support of the new pesticide policy from: The Nature Conservancy, Michael Oppenheimer, Mary Anderson, Block Island Conservancy, Block Island Land Trust, Conservation Commission and Sarah Sue Stockman.

Mr. Lacoste explained that he did not vote for the policy initially because he felt it would have been a knee jerk reaction and lacked adequate research.

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The following questions were raised:

- Does Heinz Field have a new maintenance program that complies with the policy? Ms. Dodge stated that the Recreation Director was directed to develop such a plan with his consultants. It was noted that the field's status should be monitored.
- Will the policy affect the control of rats at the transfer station? Ms. Dodge stated she will set up a dialog with the contracted pest control company to create a plan that complies.

Mr. Martin stated that he supported the pesticide policy. He further stated that the Town must not stall on the appropriate management of the properties and the implementation of the policy.

Ms. Gaffett thanked Mr. Nelson and others in the audience for attending and returning a second time, as the item was continued from a previous meeting.

**Tabled Item:**

**Received Report from Town Solicitor re: Legal Proceedings on Plat 18, Lot 32**

Ms. Gaffett explained that this item required no action, as Judy Clark, owner of Plat 18, Lot 32, removed the illegal deck and Building Official Tillson has released the notice of violation.

**Receive Update from Deep Water Wind re: Recent Activities and Offshore Wind Development**

Bill Moore, Jim Lanard, Paul Rich and Andres de Lasa were present representing Deep Water Wind. Ms. Gaffett thanked them for coming and stated it is important that the Town remain informed and follow the project.

The Deep Water Wind representatives presented a power point presentation (attached) highlighting the following:

- The Block Island wind farm will consist of 5 – 8 turbines, three miles off the southeast corner of the island.
- Legislation was signed by the Governor requiring National Grid to put out a RFP for the BI wind farm, which includes a cable from Block Island to the mainland.
- The PUC will address the contract stemming from the RFP beginning 10/15/09, deciding by 12/31/09, as set by the legislation.
- As an incentive to National Grid, they will be allowed a 2.75% markup on the wind power they purchase.
- Block Island residents may pay a larger ratio of the cable costs, but if the costs were socialized over all of Rhode Island, it would amount to \$0.38 per household, per month.
- The wind farm generation should amount to 1.1% of the entire power consumed in the state.
- 20% of the power generated throughout the year by the wind farm will power all of Block Island, with 80% being sold on the mainland.

Ms. Gaffett expressed her concern that the project would cost the Town additional legal fees for protecting the Town's interests at the PUC hearings. Deep Water Wind explained that in principle, the project should not place any costs on to the host town. They offered to cover the Town's legal costs within reason.

Dr. Baute reported that the results of the wind survey would be available in early August.

**Public Hearing: Consider proposal to amend to New Shoreham Zoning Ordinance "Mixed Use Zoning" amend Article 2, Section 202 (Definitions) to add a new definition for "Commercial/Residential Mixed Use" and to delete the definition for "Retail/Residential Mixed Use;" amendment to Article 3 "Zoning Districts and Regulations" and replace references to "Retail/Residential Mixed Use" with "Commercial/Residential Mixed Use" throughout Article 3; amend Article 4 "Criteria for Special Use Permits" by deleting Section 411 (Retail/Residential Mixed**

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FEBRUARY 4, 2010

**Use) in its entirety and adding a new Section 411 (Commercial/Residential Mixed Use), amend Article 7 "Permits, Procedures and Enforcement" to provide for Development Plan Review of Commercial/Residential Mixed Uses and amend the process for all Development Plan Review to require a project review and approval by the Town's Technical Review Committee.**

Ms. Gaffett stated that the Council had received a recommendation from the Planning Board, dated May 22, 2009, requesting the approval of the Commercial/Residential Mixed Use amendment.

Margie Comings, Planning Board Chair and Town Solicitor Donald Packer were present.

Margie Comings read aloud the amendment's Purpose from the Section 411(A). She noted that the owners of the Fishhead building at the Block Island Grocery want to build year round apartments above the newly built restaurant and the current zoning only allows residential mixed use with retail, not a restaurant. She explained the proposed amendment allows residential mixed use with commercial uses, not just retail. She also noted the amendment requires 40%, or a minimum of 1, of the residential units to be designated for persons deriving income from seasonal or year-round employment from the operation of a business in the town or be low or moderate income housing.

From the audience, Elliot Taubman stated that the amendment does not include nonprofit or governmental buildings in the definition of commercial. He also noted that the amendment would turn all existing residential mixed use buildings into prior existing non-conforming and that would make any zoning process more arduous. Mr. Packer noted that the prior existing buildings would not be subject to the new requirements.

Ms. Gaffett stated that she was concerned that the amendment eliminates the 20,000 sq. ft. threshold for residential/commercial mixed use. Mr. Torrey stated that he thought the 20,000 ft. threshold was no longer necessary and this amendment could better serve the community better and meet the needs of the downtown.

Mr. Martin stated that the amendment would improve the village effect in accordance with the Comprehensive Plan.

Discussion ensued regarding the development of the Surf property.

Ms. Gaffett made a motion to adopt the Commercial/Residential Mixed Use amendment as presented and advertised. Mr. Torrey seconded the motion and it carried.

5 Ayes (Gaffett, Torrey, Lacoste, Baute, Martin) 0 Nays

**Act on Letter from the Mary D Ball Committee**

Sean McGarry was present representing the Mary D. Ball Committee. He explained that the Committee was requesting that the Council grant the May D. Ball Town sponsorship. It was noted that the sponsorship exempted the event from compliance with the Special Event and Noise ordinance.

Mr. Martin made a motion to grant Town sponsorship to the Mary D. Ball to be held August 1, 2009. Dr. Baute seconded the motion and it carried.

5 Ayes (Gaffett, Torrey, Lacoste, Baute, Martin) 0 Nays

**Set Public Hearing Date fro Proposed Zoning Amendments re: Substandard Lots in the RA and RB Zones**

Ms. Gaffett made a motion to set a public hearing date of September 16, 2009 for Zoning amendment re: substandard lots in RA and RB Zones. Mr. Martin seconded the motion and it carried.

5 Ayes (Gaffett, Torrey, Lacoste, Baute, Martin) 0 Nays

**Receive and Act on Litigation Update:**

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FEBRUARY 4, 2010

Ms. Gaffett made a motion to go into executive session pursuant to 42-46-5(a)(2) at 9:41 p.m. Dr. Baute seconded and the motion carried.

5 Ayes (Gaffett, Torrey, Lacoste, Baute, Martin) 0 Nays

**Champlin's Marina Expansion**

Discussion ensued regarding Champlin's Marina expansion. No motions were made.

**Sprague Farm v. New Shoreham Zoning Board of Review et al**

Discussion ensued regarding the Sprague Farm case. No motions were made.

Ms. Gaffett made a motion to go out of closed session at 10:25 p.m. Mr. Torrey seconded the motion.

5 Ayes (Gaffett, Torrey, Martin, Baute, Lacoste) 0 Nays

It was noted that no motions were made in closed session.

Discussion ensued regarding rescheduling the work session. The work session was rescheduled for July 15, 2009, following the regular meeting.

Mr. Martin made a motion to adjourn at 10:33 p.m. The motion was seconded by Dr. Baute and carried unanimously.

Millicent McGinnes  
Deputy Town Clerk

Submitted: July 16, 2009  
Approved: August 5, 2009

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1-3. Does the Town believe the electrons from the Project will flow to residents of Block Island?

RESPONSE: If there is a local distribution connection from the wind farm to BIPCo and BIPCo were generating less than the island's demand, electrical output from the wind farm will first serve load on Block Island regardless of the ownership of the power or the contractual path.

Respondent: Richard La Capra  
Date: February 4, 2010