

STATE OF CONNECTICUT

SITING COUNCIL

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ADOPTION OF REGULATIONS FOR THE
 SITING OF WIND TURBINE FACILITIES
 PURSUANT TO PUBLIC ACT 11-245

* * * * *

JULY 24, 2012
 (6:30 p.m.)

BEFORE: ROBIN STEIN, CHAIRMAN

BOARD MEMBERS: Colin C. Tait, Vice Chairman
 Brian Golembiewski, DEP Designee
 Larry Levesque DPUC Designee
 Edward S. Wilensky
 Daniel P. Lynch, Jr.
 Philip T. Ashton
 James J. Murphy, Jr.
 Dr. Barbara Bell

STAFF MEMBERS: Linda Roberts, Executive Director
 Melanie Bachman, Staff Attorney

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1 . . .Verbatim proceedings of a hearing
2 before the State of Connecticut Siting Council in the
3 matter of adoption of regulations for the siting of wind
4 turbine facilities pursuant to Public Act 11-245, held at
5 the offices of the Connecticut Siting Council, Ten
6 Franklin Square, New Britain, Connecticut, on July 24,
7 2012 at 6:30 p.m., at which time the parties were
8 represented as hereinbefore set forth . . .

9
10

11 CHAIRMAN ROBIN STEIN: This hearing is a
12 continuation of the hearing that began earlier at 3:00
13 p.m.

14 My name is Robin Stein and I'm Chairman of
15 the Siting Council. Other members of the Council here
16 present are Professor Tait, who is the vice Chairman; Mr.
17 Golembiewski, the designee from the Department of Energy
18 and Environmental Protection; Mr. Levesque from -- the
19 designee from the Public Utilities Regularly Authority;
20 Mr. Ashton; Mr. Lynch; Senator Murphy; Dr. Bell; and Mr.
21 Wilensky.

22 Members of the staff present are --

23 A VOICE We can't hear you.

24 A VOICE: Nobody can hear you.

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1 A VOICE: We can't hear a word you're
2 saying.

3 (pause)

4 CHAIRMAN STEIN: Okay. Members of the
5 staff present are Mrs. Roberts, Executive Director;
6 Melanie Bachman, Staff Attorney. Gail Gregoriades, the
7 court reporter.

8 For those who were here earlier, I'm
9 repeating what I said earlier for those who obviously
10 were not here earlier. This hearing is held pursuant to
11 Section 4-168 of the Uniform Administrative Procedure Act
12 upon the adoption of wind regulations in accordance with
13 Public Act 11-245. Notice of intent to adopt the
14 regulations was published in the Connecticut Law Journal
15 on May 1, 2012. Notice of the date and time of this
16 public hearing was published in the Hartford Courant and
17 other newspapers of general circulation on or about June
18 26, 2012. Copies of the proposed regulations and Public
19 Act 11-245 are available here on the table, at the
20 Council's office, and on the Council's website.

21 The purpose of this hearing is to afford
22 all interested persons reasonable opportunities to submit
23 data, views, and arguments orally or in writing. The
24 Council will fully consider all written and oral

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1 submissions with respect to the proposed regulations.
2 These written and oral submissions, including documents
3 referenced in and attached to the written or oral
4 submissions shall become part of the Council's
5 regulation-making record. These public statements are
6 not subject to questions from other interested parties,
7 and members of the general public making may not ask
8 questions of other interested parties or the Council. We
9 are here to listen to your comments and no cross-
10 examination or rebuttal statements will be permitted.

11 Also please note that we have already
12 received written comments, which we appreciate, and
13 they're part of -- they've been made part of the record
14 and there's no need to resubmit them during this phase of
15 the hearing.

16 As many of you know, the Council has --
17 had acted on three petitions for the siting of wind
18 projects in 2011; one in Prospect and two in Colebrook.
19 We would like to make it clear that we are not here to
20 rehash or review these petitions or decisions by the
21 Council. I would also like to note that under Public Act
22 11-245 no new application or petition for the siting of
23 wind turbines can be acted upon under -- until the
24 regulations are adopted, and that there are no

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1 applications or petitions pending before the Council.

2 The Siting Council has jurisdiction over
3 wind turbine facilities with the generating capacity of
4 more than one megawatt. Small and medium sized wind
5 turbines, therefore, do not fall under the Council's
6 jurisdiction or regulations, but rather fall under the
7 regulations of local commissions.

8 We ask that each person making a public
9 statement during this hearing be concise and to confine
10 his or her statements to the subject matter before the
11 Council so we may hear all of the suggestions interested
12 persons may have.

13 The subject matter before the Council is
14 the adoption of regulations that consider the following
15 topics concerning the siting of wind turbines: Setback
16 distances; shadow flicker; decommissioning of turbines;
17 requirements for wind turbine projects of differing
18 sizes; ice throw; the issue of blade throw; noise; and
19 the impact on natural resources.

20 A sign-up sheet is available on the table
21 by the door for those interested persons who would like
22 to present oral statements.

23 A verbatim transcript will be made of this
24 hearing and deposited at the Council's office for the

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1 convenience of the public.

2 I further ask that each person presenting
3 oral statements -- if you're referring to a specific
4 section of the proposed regulations, to please indicate
5 the page number and section number assigned to the
6 regulation. Prior to proceeding to another specific
7 proposed regulation upon which you wish to comment,
8 please allow the Council an opportunity to ask
9 questions.

10 Please note that there are two sign-up
11 sheets, one for elected officials and one for the public.
12 Elected officials include state legislators and the chief
13 elected official from a municipality.

14 In fairness to everyone who wishes to
15 speak, and this went well this afternoon, oral statements
16 will be limited to three minutes. We have a stop system
17 there that will at some point after two minutes turn
18 green. And then after two and a half minutes will flash
19 yellow. And then at the end of three minutes, it will be
20 red when time will be expired.

21 We'll now call on from the list. The
22 first --

23 (pause)

24 CHAIRMAN STEIN: The first - (pause) --

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1 the first person on the list is Representative Nardello.

2 Thank you for coming.

3 REPRESENTATIVE VICKIE NARDELLO: Thank
4 you. Can you all -- I can't -- can you hear me? Is it
5 on?

6 A VOICE: No.

7 REPRESENTATIVE NARDELLO: Okay. Maybe
8 it's just me. How's that?

9 A VOICE: No, you need to get very close
10 to --

11 REPRESENTATIVE NARDELLO: Very close to
12 the mic. Okay.

13 First of all for the record, I want to
14 introduce myself. I'm Representative Vickie Nardello. I
15 currently serve as Chair of the Energy and Technology
16 Committee at the State General Assembly.

17 And I'm going to try to compress some of
18 my remarks and direct them specifically to the
19 regulations that you have before you, but I do think the
20 one thing I want to say in the beginning is it is
21 extremely important how these regulations go forward,
22 because ultimately the acceptance of a community of any
23 renewable project and its success and failure is going to
24 depend on those regulations and people's belief that

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1 those were done in a fair and equitable process.

2 I have reviewed the regulations that you
3 have put before us and in the -- there are certain things
4 that I want to comment on. In the proposed regulations
5 there is no distinction that is clear -- and although you
6 did state it in your prefacing remarks, I think in our
7 read of the regulations there is not a clear distinction
8 between large industrial wind turbines and smaller wind
9 turbines. Current law limits the Siting Council
10 jurisdiction to turbines of one megawatt and over. It is
11 extremely important that this distinction is maintained
12 and that the regulations proposed apply to proposals of
13 one megawatt and over. Any changes to approve smaller
14 projects under one megawatt in the proposed regulations
15 will require legislative approval. Projects under one
16 megawatt are now under local jurisdiction. And this
17 expansion would meet with local -- and should not be
18 undertaken through the regulatory process. So, I do
19 think there needs to be more clarity in this area.

20 The regulations as proposed would make any
21 project 65 megawatts and under subject to a declaratory
22 ruling. Well the number the Siting Council chose is
23 reflected in the statutes. It was put in place to
24 address renewable projects other than wind turbines.

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1 Sixty-five megawatts would be an extremely large wind
2 project. And using that number would mean that virtually
3 all wind proposals would be by declaratory ruling. Since
4 a one-megawatt wind project is really of considerable
5 size, any project one megawatt and over should be subject
6 to an application process rather than a declaratory
7 ruling. Renewable projects other than wind projects
8 should be subject to separate standards. And that's
9 when the legislature put the 65 megawatts in place, and
10 never anticipated that it was going to be applying to
11 wind turbines. It was more of a small bio-mass plant,
12 other areas of renewable energy, but certainly not wind
13 turbines.

14 The regulations as proposed seek to make
15 changes in the Siting Council law that would be
16 considered substantive changes to current law that go
17 beyond wind regulations. This is of particular concern.
18 While the draft regulation process is appropriate for
19 making technical changes -- and I do see that you have
20 done that -- substantive changes to the Siting Council
21 law require legislative approval and should go through
22 the legislative process. And we have identified some
23 substantive changes as you've proposed them. And I'm not
24 going to get specific on that, but I'm happy to further

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1 discuss that with you if you would like a list of the --
2 of what we consider the substantive changes. The
3 specific suggested changes to the regulations proposed
4 that follow should apply to projects one megawatt and
5 over. So what I'm saying is everything I've said going
6 forward I believe should be applied to projects of one
7 megawatt and over.

8 The minimum setback for residential
9 property lines should be at least one-half mile to reduce
10 the possible impact of noise level on residents. Each
11 project should be carefully evaluated and setback levels
12 should be determined on an individual basis after the
13 minimum level is met. Additional setback requirements
14 should be required when credible evidence to their need
15 is submitted.

16 A waiver of setback requirements should be
17 allowed only when the applicant can demonstrate that
18 potential safety hazards would be eliminated or
19 substantially reduced, and the setback reductions
20 proposed should be included in all notices. The Siting
21 Council should be required to list all the criteria on
22 which any waiver is granted.

23 Any manufacturer's setback requirements
24 should be provided to the public. Minimum distances

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1 between wind turbines where multiple turbines are being
2 proposed should be required.

3 The Siting Council should not expand the
4 definition of fuel through the regulatory process. Any
5 change in definition should be done legislatively.

6 The definition of the term modification is
7 unclear in the draft regulations and should be more
8 specific. And further, any changes in the definition
9 should be left to the legislative process since that
10 would be a major change.

11 The visual impact evaluation should be
12 expanded to include a radius of one to eight miles to
13 ensure that visual impact is considered both at a
14 distance and close to affected properties. Consideration
15 should also be given as to whether the wind turbine will
16 be placed on a ridgeline or in a valley area.

17 The requirement for noise receptors need
18 to be further clearly defined on what constitutes a noise
19 receptor and to where the receptors can be placed.

20 A wind turbine maintenance plan should be
21 included in the noise report to address possible changes
22 to noise levels with aging equipment.

23 The applicant should be required to report
24 the amount of time icing conditions are expected during

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1 the year because that will vary according to where it is
2 sited.

3 Applicants should be required to submit a
4 monitoring plan that outlines schedules for routine
5 inspections to assess the condition of the equipment.

6 In the Evaluation of Natural Resource
7 Impact the regulations should be more specific than just
8 requiring compliance with recommended standards and
9 guidelines. Again, that's a very nebulous term. There
10 isn't real clarity in these regulations as to what you
11 mean by standards and guidelines.

12 A host town impact analysis should be
13 required to address possible changes needed to a town's
14 infrastructure when a wind turbine is commissioned. And
15 by that I mean there are possible road changes, changes
16 to actual infrastructure that need to be considered when
17 we are doing this in the beginning of the process.

18 A clear list should be included of what is
19 necessary from applications to be technically sufficient
20 and it should specify the requirements for applications
21 and petitions individually.

22 Wind turbine operators should be required
23 to meet any existing local noise standards. The Siting
24 Council should not be allowed to grant waivers of noise

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1 levels for good cause as this power rests with the
2 Commissioner of DEEP and the power was granted by the
3 General Assembly. Any changes should be brought before
4 the General Assembly.

5 A waiver of shadow flicker requirements
6 should be more narrowly tailored. The granting of
7 waivers should prevent circumvention of any regulation.

8 A report on telecommunication impact
9 should be required with the application and a discussion
10 of all impacts and a comparison of the proposed design to
11 any submitted alternative should be required.

12 A report that considers the cumulative
13 effect of all wind turbine proposals in relation to any
14 existing structures should be required as well.

15 A completeness review should be required
16 that includes the purpose, the statutory authority, the
17 contact information, information required under UAPA and
18 the current Siting Council law, information required by
19 any state agency and any other information requested by
20 the Council should be part of that completeness review.

21 I thank you for your consideration of
22 these suggestions. I hope they will be taken into
23 consideration in your final draft -- in your final
24 proposal. And I appreciate the fact that you've given me

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1 the time to speak.

2 CHAIRMAN STEIN: Thank you very much.

3 (applause)

4 CHAIRMAN STEIN: Okay. The next speaker
5 on the list is Richard Sargeant.

6 MR. RICHARD SARGEANT: Good evening --
7 good evening Council Members and everybody here present.

8 My name is Rick Sargeant and I'm from
9 Prospect where about two years ago we all found out a lot
10 about wind turbines. And quite honestly, I didn't know
11 that much about it either.

12 I could come in here and come up with all
13 kinds of regulations and setbacks, a list of them from
14 different places around the country, and a lot of that
15 research was already done and we've all read it on this
16 site and we've all been witness to plenty of people
17 testifying from all around the country. I guess
18 basically what I have to say is in this past year and a
19 half or so I've learned a lot about setbacks and what's
20 safe for people and met plenty of people from Falmouth
21 and around that have been adversely affected from wind
22 turbines, and the State of Connecticut right now has a
23 very good opportunity to learn from other people's
24 mistakes and not have to backtrack so to say. And

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1 unfortunately with a 1.1 times the height setback, I
2 think we'll be doing nothing but backtracking and not
3 learning from history. So I'm saddened to see that
4 that's the best we could do for setbacks in the State of
5 Connecticut. Thank you very much.

6 (applause)

7 CHAIRMAN STEIN: The next speaker is
8 Nelson -- is it Algarin?

9 MR. NELSON ALGARIN: Hi, good evening. My
10 name is Nelson Algarin and I'm from Prospect as well.

11 And you know, I've been involved with this
12 for the past year and a half. I've seen all the
13 evidence. I've seen the setbacks that were discussed.
14 And to be honest, when I reviewed the proposed
15 regulations that you guys put together, I was completely
16 disappointed, just completely disappointed. It's like
17 you guys -- you weren't here. I mean you were probably
18 in a different room than I was. It was just they're
19 crazy. 1.1 times the height? What, are you kidding me.
20 It's just -- I don't know, I just can't fathom that you
21 guys didn't see that.

22 In Prospect the turbines that were
23 proposed were supposed to be 500 feet tall. So that
24 means that the setback is 550 feet with these proposed

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1 regulations. Now somebody coming out of their house and
2 getting hit by ice or a piece of the blade and you guys
3 knowing this, putting it so close that they can get hit -
4 - I mean there's been evidence that the blades have been
5 thrown for thousands of feet. And you guys know this. I
6 tell you what, if it's my neighbor that gets killed, I
7 think we should go after you guys for murder. And that's
8 all I have to say.

9 (applause)

10 CHAIRMAN STEIN: The next one is Jeff
11 Stauffer.

12 MR. JEFF STAUFFER: Yes, I'm Jeff Stauffer
13 from Woodbridge. I have property in Colebrook. I'm in
14 the process of building my house right next to where the
15 turbines have been approved.

16 I sort of had a speech written, but I
17 think Vickie Nardello said a lot of what I had to say and
18 I don't want to repeat it, but I just have to agree with
19 everybody from Prospect that 1.1 times the height is just
20 pathetic. And I think that the way you write it -- or
21 wrote the regulations that you could reduce them upon a
22 showing of good cause if -- if you feel that they could
23 be closer -- I think the way you write it is just -- it
24 just -- it just leaves too much room for flexibility with

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1 turbine placement. I think the regulations should be set
2 in stone. I think that a regulation shouldn't be written
3 in a way that you could go back and waive the regulation.
4 I think it's -- I think it's a joke. I think it's
5 pathetic.

6 I think that 1.1 times the height is -- is
7 nowhere near what it should be. I think a half a mile to
8 three-quarters of a mile is much more appropriate for a
9 setback for a turbine that's so high which could throw
10 ice up to a thousand feet and throw blades even further
11 than that. Thank you.

12 (applause)

13 CHAIRMAN STEIN: Thank you. The next
14 speaker is John Hurley.

15 MR. JOHN HURLEY: Hi. I'm John Hurley
16 from Prospect. Thank you for letting me comment on this
17 topic.

18 You know, I'm 51 years old. I just paid
19 off my house. The American dream. And I'm sure many in
20 this room have struggled to reach that pinnacle in their
21 life. Well I had a dream about someone going off to war,
22 coming home and there's a 500-foot turbine in this
23 property 550 feet away. His property has gone down in
24 value, he's got to worry for his children. And I just

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1 came here to ask one simple question. Why so close?
2 What is so important that we have to cause suffering for
3 people?

4 You know, everybody -- we've got a bad
5 economy now, people are struggling for work. I
6 understand global warming. I understand all these
7 things. But when you really boil it down, does anybody
8 in this room really, honestly can look me in the eye and
9 say yeah I'd be okay with a 550-foot setback from my
10 home. I -- I don't think so. I think -- you know, I
11 just think it's a complete abuse of the system.

12 I -- I -- regardless of what side of the
13 fence you're on politically or what your environmental
14 beliefs are, you just can't do that to people. You have
15 the power to do that to people. And I think in the end
16 when things do go array, whether it's just property loss
17 values, neighborhoods that can't get out from underneath
18 -- or the worse case an accident, it's on your shoulders.
19 So with that, I'm powerless now. It's up to you. Thank
20 you.

21 (applause)

22 CHAIRMAN STEIN: Thank you. Any more?
23 Okay. That's all the people that have signed up. Do we
24 have any additional speakers?

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1 (pause)

2 CHAIRMAN STEIN: We're keeping a record
3 for the transcript, so we'd appreciate that if anybody
4 wants to speak if you would sign in first please. Thank
5 you. And since you have, would you please give -- spell
6 your last name.

7 MR. TIMOTHY REILLY: I will. Timothy
8 Reilly, R-e-i-l-l-y, Bluecrest Drive in Prospect.

9 I'm sorry I couldn't make the earlier
10 session today. Unfortunately, I had to deliver the
11 eulogy for my sister's child earlier. I hate to say it,
12 but this is more painful than that was. You know as I
13 was driving up from Stamford, I wondered how the Siting
14 Council's eulogy for the Connecticut's residents was
15 coming along.

16 I drove 73 miles from Stamford to New
17 Britain in traffic, so I had a lot of time to think about
18 this process where last year we solidly -- and I'm going
19 to speak about setback here -- solidly -- and that's page
20 13 in your regulations -- solidly and at great expense
21 presented to you facts and a convincing body of evidence
22 to show you last year that industrial wind turbines could
23 not be safely sited in residential areas. We shared with
24 you the 2007 report from the National Research Council, a

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1 body founded by the esteemed Academy of Sciences, more
2 than 150 years old. That report on wind turbines stated
3 that they could not be safely sited within less than six-
4 tenths of a mile, echoing Representative Nardello's
5 comments earlier, without the potential for adverse
6 health impacts on residents. We brought in witnesses
7 from Cape Cod who had lived in the shadows of these
8 giants at distances more than four to five times the 1.1
9 setback you have irresponsibly proposed. We flew in a
10 homeowner from Wisconsin at great expense to us because
11 his only hope was that he could prevent what happened to
12 him here in Connecticut before we started development.
13 These witnesses have lost all hope for themselves, but
14 they hoped that their testimony might make a difference
15 here in Connecticut.

16 And while you were not in the seat at that
17 time, Mr. Chairman, the Council members will remember it
18 was only after serious negotiation on the part of our
19 attorneys that the Council finally permitted these
20 residents the briefest of exchanges with the Council
21 members. In my opinion the Council that day skirted its
22 responsibilities to the residents of Connecticut.

23 We now find that Cape Cod has a 3,000 foot
24 setback, has turned off one turbine and not started

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1 another. These are facts, but they don't seem to get
2 through. Then I figured it out. This is a public
3 hearing and not a public listening. The difference is
4 that hearing is one's ability to sense sounds around
5 them. Listening is a conscious effort to interpret the
6 sounds, requiring each of you to concentrate.

7 So with all due respect, please listen to
8 what I'm about to say. Our standard of safety, me and
9 many of my neighbors, is at least 3,000 feet. I ask that
10 you balance the need for efficient and effective energy
11 generation in Connecticut with -- responsibly with the
12 quality of life for your electricity customers and
13 residents of Connecticut. Thank you for listening.

14 (applause)

15 CHAIRMAN STEIN: Thank you. Understanding
16 there are no other speakers, I'll conclude with the
17 following closing statement.

18 Pursuant to Section 4-168 of the
19 Connecticut General Statutes, the Siting Council upon
20 reaching a decision, obviously in the future, on whether
21 to proceed with the proposed regulations or to alter the
22 text from that originally proposed, we will provide
23 notice on decisions it's made and a copy of the
24 regulations that will be ultimately proposed will be

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1 available for copying and for inspection. The notice and
2 a copy of the proposed regulations will be e-mailed to
3 the service list that's been provided and posted on the
4 Council's website for the convenience of the public.

5 For those who were unable to be here or
6 for those who want to submit additional material in
7 writing, you may submit those comments on or before
8 August 7th of this year.

9 And I hereby declare this hearing
10 adjourned and thank you all for your participation.

11

12 (Whereupon, the hearing adjourned at 6:57
13 p.m.)

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