

From: fenbois@aol.com [<mailto:fenbois@aol.com>]

Sent: Wednesday, December 05, 2018 8:58 AM

To: Bachman, Melanie ; Stein, Robin

Cc: Murphy, James; Hannon, Robert; Levesque, Larry; Silvestri, Robert; Harder, Mike; Edelson, Ed; Lynch, Dan

Subject: Re: Petitions 1352 and 1354

Melanie: It was my intent that this be a completely public document. Not a private document. There are is nothing contained herein--just some observations about a proposal. Please make it part of the record of this application. I was not soliciting input..just putting my thoughts out there in advance of what I intend to say at the meeting. If you wish I can read the entire email in its entirety at the meeting. Michael

-----Original Message-----

From: Bachman, Melanie <Melanie.Bachman@ct.gov>

To: 'fenbois@aol.com' <fenbois@aol.com>; Stein, Robin

Cc: Murphy, James; Hannon, Robert; Levesque, Larry; Silvestri, Robert; Harder, Mike; Edelson, Ed; Lynch, Dan

Sent: Wed, Dec 5, 2018 8:46 am

Subject: RE: Petitions 1352 and 1354

Michael,

This e-mail to all of the Council members discussing matters over which the agency has jurisdiction constitutes a "meeting," as that term is defined under the FOIA, of the Council without notice to the public. It is commonly known as an "inadvertent meeting," which could be a series of telephone calls ("telephone polling") or a series of e-mails ("e-mail polling") by and between a quorum of board members concerning board business.

Based on Freedom of Information Commission (FOIC) precedent, this e-mail you sent to the entire Council membership meets the definition of "e-mail polling" and constitutes a "meeting."

The definition of a "meeting" under the FOIA is as follows:

Sec. 1-200. (Formerly Sec. 1-18a). Definitions. As used in this chapter, the following words and phrases shall have the following meanings, except where such terms are used in a context which clearly indicates the contrary:

(2) "Meeting" means any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power.

Here is a link to the controlling FOIC decision on this topic:

<https://www.ct.gov/foi/cwp/view.asp?a=4162&Q=544018>

Please do not send any e-mails to the entire membership or a quorum of the Council discussing Council business.

I'll look into scheduling an FOIA training for the Council in the new year.

Thank you.

Melanie A. Bachman, Esq.
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From: fenbois@aol.com [<mailto:fenbois@aol.com>]

Sent: Tuesday, December 04, 2018 12:30 PM

To: Stein, Robin; Bachman, Melanie <Melanie.Bachman@ct.gov>

Cc: Murphy, James; Hannon, Robert; Levesque, Larry; Silvestri, Robert; Harder, Mike; Edelson, Ed; Lynch, Dan

Subject: Petitions 1352 and 1354

Good Afternoon:

In preparation for the meeting on 12/6 I note that we have a request for public hearing (which includes site visit and evidentiary session) for Nutmeg solar 1352.

Concerning 1354 they have identified vernal pools, noted wood frogs on site, but have not studied these vernal pools--but plan to do so in the spring of 2019 (March/April). They are quite clear that they will be incursions into the vernal pool envelope and the CTH loss will exceed 25% but they don't know if these are highly productive pools. As survival of wood frogs is scientifically linked to water quality, this is a quandary--how far out can we schedule this out--to allow them to complete these studies??

In any event, as I fear that the regulatory timeline will not coincide with the biological timeline, I believe we need to scrutinize this site as a group, ask questions of the applicant's consultants, etc. I would request, by this email, that we request a public hearing, evidentiary session, and public comment session to allow us to come to a better understanding of this site which is criss-crossed with wetlands. I also note that the cover letter from Mc Dermott refers to this as a fuel cell project, but it is a solar field project, and the agenda lists it as 1.98 Megawatt but the application is for 2.35 Megawatt.

Dr. Michael W. Klemens
Council Member