

WINSLOW PLANNING BOARD

Minutes of the Meeting
November 15, 2007

Chairman, Michael Parker called the meeting to order at 7:15 p.m. There were six (6) members present:

Michael Parker	Elery Keene	Milton Poulliot
Richard Browning	Roy Strahan	Dominic Carter

Voting members were Milton Poulliot, Elery Keene, Richard Browning, Sr., Roy Strahan. Non-voting member was Chairman, Michael Parker.

Also Present:

Frank Stankevitz, CEO	Bill Lee, Town Attorney
Matt Manahan, Attorney FPLE	Andy Straz, TRC
Dave Dominie, TRC	Al Wiley, TRC
Bob Rickter, Fish Biologist	

Elery Keene made a motion to waive the reading of the minutes of the November 8, 2007 Planning Board Meeting. Motion seconded by Richard Browning, Sr.

Passed - Vote 5 in favor 0 against

A letter was presented to the Planning Board by Chairman, Michael Parker, stating that Kenneth Fletcher would be standing down during the consideration of FPLE's application to breach the Fort Halifax Dam due to a conflict of interest.

Chairman, Michael Parker stated that this was a Special Meeting on FPLE Conditional Use Permit to breach the Halifax Dam. A motion was made by Richard Browning, Sr. to restrict the meeting to FPLE Conditional Use Permit. Seconded by Milton Poulliot.

Passed – Vote 5 in favor 0 against

The meeting was turned over to Matt Manahan, Town Attorney FPLE. Mr. Manahan stated there would be a presentation made by representatives for FPL and turned the meeting over to Al Wiley, VP, FPLE, LLC. Mr. Wiley gave a brief history of the Halifax Dam and the steps that have brought them to the Planning Board for the breaching of the dam.

Andy Straz, Engineer with TRC gave the next presentation with a brief history of the Halifax Dam's construction. From that history he went on to explain how the breach was to take place and construction of the temporary road. The road construction was the first to be explained. To have the least impact on the environment they would use crane mats and some fill. The breaching would be done by back-hoe hammering the 87 foot section down to a rubble pile. This would allow the water to flow out of the impoundment over several days with the least impact on the ecosystem. All rubble would be removed and hauled. The work would be schedule to be started in July and completed in August.

Dave Domenice, TRC spoke next on the permit process that FPLE went thru with State of Maine agencies, Federal Energy Regulator Commission (FERC), Maine Waterway Development and Conservation Agency, and Army Corps of Engineers. The considerations that they looked at were water quality, erosion, environmental impact, chemicals in the soil, flooding, structural and the breach opening.

Kenneth Fletcher – 382 Garland Road, Winslow, representing Save Our Sebasticook (SOS) Stated that Florida Power and Light Energy (FPLE) have chosen to breach the Fort Halifax Dam as their least-cost effective option to achieve mandated upstream sea-run fish. In March another hydropower company (Essex Hydro Associates) approached FPLE to acquire the Fort Halifax Dam and stated they would install the mandated fish lift. FPLE then imposed an arbitrary requirement stating that they would only sell the dam if the Kennebec Hydro Developers Group (KHGD) signatories agreed. The Kennebec Coalition has been an advocated for dam removal and refuse to consider the ownership transfer. FPLE has chosen to proceed with the dam breaching.

FPLE is proposing to break an 87 ft hole in the middle of the dam and leave the remaining 466 ft of dam in place with an uncertain future. Once the dam is breached, the state and federal agencies will no longer have jurisdiction over the condition of the abandoned structure. The breaching will leave the people of Winslow with the many consequences and costs and damages done to the existing environment. It is important to note The Edwards Dam removal set a precedent on dam removal. The Edwards dam was completely removed and returned to a pre-dam condition. That same standard should be applied to the Halifax Dam.

Some of the following actions should be looked at as condition of FPLE's dam removal request:

1. **Removal of the entire Dam Structure.** FPLE should be required to either (a) completely remove the dame structure and return the site to a pre-dam condition or (b) establish a Town escrow account or performance bond with a sufficient amount of money to pay for the removal of the dam and restoration of the site in the future as determined by the Town.
2. **Sewer Line.** FPLE should be required to bear the full costs of the sewer line repair and/or replacement and shall be accountable for any future modifications for a minimum of a five year period to ensure that FPLE's initial modifications are sufficient.
3. **Public Access.** FPLE should be required to: (1) provide the Town with a permanent easement for public access for the existing portion of the boat launch access area above the dam that FPLE owns. In addition, FPLE should be required to obtain an easement from landowners on the emergent land abutting the existing boat launch for FPLE ownership to the new river edge. FLPE currently has only flowage rights on this land which will be in question once the dam is breached. FPLE should be required to construct a passable surface structure over this emergent land to ensure that the public will continue to have safe legal access to the river above the dam; (2) FPLE should be required to remove the entire FORT Halifax DAM structure and return the river area to a pre-dam condition so that public access and safety will not be compromised by a narrow breach in the dam; and (3) FPLE should be required to consult with the Town Recreational department and the local snow mobile club to determine the location(s) cross-river access that will be needed to preserve public winter access and river-crossing along the 5.2 mile stretch of the formerly frozen pond. FPLE should be financially responsible for the design,

application process, and construction costs of these cross-river access points including the obligation to acquire easements from property owners. The acquired easements are to be transferred to the Town.

4. **Site Clean-up of drained impoundment area.** FPLE should be required to remove and properly dispose of all man-made debris from the +-260 acres that will be exposed as a result of draining the impoundment. Removal must take place immediately following breaching and prior to the normal fall high water conditions.
5. **Erosion control.** FPLE should be required to re-seed all of the 260 acres of emergent land to ensure that there is re-vegetation by the end of September following breaching. FPLE should be required to provide a documented survey of the state of re-vegetation that exists as of May 15 of the following year after breaching and be accountable to re-seed any areas that have eroded or are without vegetation. This survey and corrective action cycle will continue until two full years have elapsed when new erosion and/or non-vegetated areas have not been experienced.
6. **Property Boundaries.** FPLE should be required to survey and mark their fee ownership acreage consistent with Town standards for their many lots that are dispersed throughout the impoundment area. FPLE should be required to provide the Town and the abutting landowners a survey map that contains the boundaries, legal description, and acreage of all their fee ownership land so that ownership and tax liabilities can be resolved. FPLE should also be required to supply all the landowners that abut the emergent flowage land with a survey map that contains the boundaries and legal description of the subject acreage. If FPLE decides to sell any of the ownership land in the future, they should be required to provide the abutting land owner(s) with the right of first refusal.

Concluding with, the Planning board's approval of FPLE's request to remove the dam must be contingent on a reasoned and comprehensive set of conditions that will assure that the greater public interest is achieved and not compromised.

See exhibit A for details.

Stanley Mathieu, 501 Clinton Ave, Winslow.

Mr. Mathieu gave a brief history of his life in Winslow and went on to the history of Winslow and the Halifax Dam. He went on about how the agreements of the removal of the Halifax Dam were done without Winslow being represented. Mr. Mathieu went on to the ramifications the removal of the dam would have on the Town both ecological and economical. They are as follows:

We will no longer have two bald eagle nests.

A family of loon will be forced to leave.

The osprey, Canadian geese and assorted wild ducks will leave.

Loss of property value on shore land.

Loss of property tax value on the dam.

Cost of an unresolved sewer situation.

See Exhibit B for details.

Peter Newkirk, Garland Road, Winslow

Mr. Newkirk was concerned with the soil erosion. The way the breaching is going to be done is a fine proposal as far as soil erosion. The slow breach will not cause sloughing. By allowing natural

vegetation to fill in the exposed area will not stop soil erosion. There would be a short growing season. The vegetation that would fill in the area is that of the single stem variety and weeds not a sod type which would do a better job of stabilizing the soil. If there is a heavy rain fall or a drought the native vegetation would not provide significant coverage to prevent soil erosion. FPLE should be required to do a re-seeding to form a sod that will provide living mulch.

Frank Stankevitz, CEO Winslow

The applications refer to the 100 year flood. The remaining parts of the dam will not be affected by the 100 year floods. There is no mention of the 500 year flood and the effect they will have on the stability the remaining portions of the dam. There have been three of these floods, one in 1937, 1938, and 1939. Mr. Stankevitz would like to see and study on how they would effect the stability of the remaining portions of the dam.

Sashay Russakoff, Bolduc Ave., Winslow

Mr. Russakoff stated that a renewable energy is being eliminated by the breaching of the Halifax Dam in a time when we are looking at renewable energy sources. He proposes that FPLE help the Town find a new renewable power source that would fill in the gap that will be left from the dam removal.

Mary Fletch, Garland Road, Winslow.

Does not believe that application is complete, FPLE is rushing the process. They are asking the Town to eliminate a 5.2 mile impoundment that created a 417 acre lake for sea run fish to run up stream. They are being asked to destroy a 100 year old eco-system, eliminate a four season lake site, demolition a piece of Winslow history that is eligible for the national historical Registry, asked to expose and secure sewer line at a cost to the Town, provide public access to the river as FLPE would own the land, permanently end a clean renewable energy sources that generates 7 million kilowatts hours of energy per year; enough to light 1 out of 3 homes in Winslow, less revenue due to lose of taxes on the dam, expose several acres of new land with uncertain property boundaries, expose at least 5 overboard discharge waste water pipes, significantly alter the exciting wet land, encore liability for soil erosion, and eliminate Winslow's own identity.

Recommends

1. A site review by the Planning Board on the Halifax Dam.
2. FLPE submits a complete site review plan with the impact on the surrounding properties, municipal facilities and services, and natural environment. According to Winslow non-conforming use ordinance article 1 section 12-10b-2b, may not allow removal or portion of the Dam and release of the impoundment unless FPLE has first establishes that the exciting structure will be less of a nascence then the dam and impoundment that has been a feature of the Town for the past 100 years.
3. The enviormantel review should be part of public record.
4. FPLE should provide the Planning Board with new wet land maps on the new wet lands that they claim will exist. FPLE should provide the Planning Board with new wet land maps on the new wet lands that they claim will exist.

Following conditions should be required

1. FPLE remove the entire dam and establish financial resources in an escrow account for any liability to the town for a time determined post breach.
2. FPLE be responsible for full repair and payment of the sewer line that will be exposed
3. FPLE to be responsible for all legal fees for land surveys of new property lines and boundary maps that would be required to determine ownership and also give abutting landowners first refusal to buy any FPLE fee owned land around the impoundment.
4. Pay for the extensions of all the newly exposed overboard discharge pipes to the new water level.
5. Provide a permanent easement and public access to the new water level transferring easement to the Town.
6. Provide site cleanup on the drained impoundment and re-seed.
7. Provide snowmobile passage over the river of open water by building an east-west bridge snowmobile crossing.
8. Sounding studies be done to discover what those water depths would be both in high and low waters.

See Exhibit D for details.

Theresa Macklin, 486 Garland Road, Winslow – Gave a brief history of growing up on the river. The property values will decrease. These properties will no longer be waterfront. The land was taken away from the farmers and now the waterfront property is being taken away from them without a choice.

Jerry Quirion, S Garand Road, Winslow – How many wheelers are going to use the right of way to the Halifax Dam? The right of way is very close to the intersection to China Road and the intersection to the Cushman Road will they need to apply for an entrance permit from DOT?

Lindale Goodrich, Benton-Winslow Town Line

Access promises would be worthless if FPLE sells off the property. There is no way to transfer promises if the property were to be sold.

Jim Wing, 835 Clinton Ave., Winslow – The well systems of property owners have been drilled in what is now the water table the pond. If the breaching effects the wells, who will be responsible for fixing them, the Town, the landowner or FPLE?

Paul Bowin, Clinton Ave., Winslow

FPLE says there will always be passage across their land to the shore front, will landowners able to clear the passages from the overgrowth of thorn bushes, and alders. There is water drainage flows to a peninsula that forms wet lands, will that stay the same or will new drainage be put in place to keep it from forming a swamp.

FPLE's response was that what ever the natural conditions is, is what the land will convert to. So if it was a swamp than that is what it will go back to.

The Board asked if Mr. Bowin's would submit his questions in written form. There are other issues that would be effected such as shore land zoning.

Gerald St. Amand, 905 Outer Clinton Ave., Winslow

The Planning Board is not doing this to the Town; the Planning board has to rule on what is brought to them. Mr. St. Amand would like to see a moratorium of 3 to 6 month to process the information and to see if a meeting between Essex Hydro, FPLE, Kennebec Coalition and the Town of Winslow can come to an agreement on the fish passage and selling of the Halifax Dam. The other options would be to see if FPLE could walk away from the dam and leave the Dam in place as a no-working dam that would protect the impoundment.

Mr. Lee - The Planning Board can not put a moratorium on the process. There is no ordinance for a moratorium. They must rule on what has been presented to them. If the feel they need more information or a site review to complete the process they may request it before voting on the issue.

Corey Pomeroy, 12 Sam Street, Winslow

There was electrical shock at the Hathaway and killed a 36 inch pike. There was one pike caught in the Seabasticook and this year 3 pike were caught in the Seabasticook, they are an aggressive fish species and will work their way to Pattee Pond, China and other lakes by swimming up stream and rune the fishing on these lakes.

Chairman Parker thanked everyone for there participation and closed the Public Hearing..

Chairman Parker posed the question if the application was complete.

Mr. Keene felt that the Planning Board needs time to review the information en-order to determine if there is additional data or explanations they may need in order to make a decision. Does not feel that they can conclude that the application is complete, believes they have 35 days after the public hearing to determine that the application is complete.

Mr. Lee – The Planning Board does have 35 day after determining the application is complete to make a decision on the application, there is some leeway on determining completions of the application. If the Planning Board needs more time to determine this they have the purgative to set the time frame for the prosing of information.

Mr. Manahan – In terms of completion of the application, they have provided the Board with the information that is asked for in our ordinances.

Mr. Lee - There are additional information that needs to be provided. They are as follows:

Provide the deeded right of way to show that there is legal access to perform the work.
A written description of the fencing is provided that is to be used keep the public away from the remaining dam portions.

The comments, if any, made by the Maine Historical Preservation Commission needs to be submitted for review and comments by the Planning Board.

Chairman Parker asked for a motion on completion of the application.
There was no motion.

Mr. Lee added that there is no motion; there fore the application is not completed.

Mr. Keene made a motion to do a site review of the Halifax Dam with FPLE. Seconded by Mr. Poulliot.
Passed – Vote 5 in favor 0 against

Chairman Parker set the tentative date for site review of Friday November 30th at 8:00 am.

Motion by Richard Browning to set the site review day as Friday, November 30th at 8:00 am.
Seconded by Mr. Keene.
Passed – Vote 5 in favor 0 against

Next meeting for FPLE to be held December 13th at 7:15 at the Winslow Jr. High.

Motion by Mr. Keene to hold the next meeting on December 13th at the Winslow Jr. High. Seconded by Mr. Browning.
Passed – Vote 5 in favor 0 against

Next special Planning Board meeting is December 13th at 7:15, Winslow Jr. High.

Motion to adjourn meeting made by Richard Browning and seconded by Elery Keene
Passed – Vote 5 in favor 0 against

Meeting adjourned at 11:00 p.m.