

## WINSLOW PLANNING BOARD

Minutes of the Meeting  
December 13, 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., Michael Parker, and Roy Strahan. Non-voting member was Dominic Carter who will participate.

Also Present:

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

Elery Keene made a motion to dispense with the reading of the minutes from the December 6, 2007 Planning Board Meeting. Motion seconded by Richard Browning, Sr.

Passed - Vote 5 in favor 0 against

Chairman, Michael Parker stated that this was a Special Meeting on FPLE Conditional Use Permit for a partial breach the Fort 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 only matter on the agenda will be the FPLE partial breaching of the Fort Halifax Dam application. Also the meeting would adjourn at 9:30 p.m., the last meeting was a public meeting and the Board wanted to make sure that all the Town citizens had a chance to speak. All questions will be directed to the Chair.

Chair Michael Parker thanked all those who participated in the Public Meeting held on the 15<sup>th</sup> of November this is a Public Hearing. The Board scheduled a site review to be held on the 30<sup>th</sup> of November present at that time was Mr. Manahan and his associates Dave Dominie and Andy Straz, Board Members were Dominic Carter, Roy Strahan, Elery Keene, Michael Parker and Richard Browning along with Michael Heavener, Town Manager, Bill Lee Town Attorney, Kenneth Fletcher and several members of the public. Absent at that time were Frank Stankevitz, CEO Town of Winslow and Board Member Milton Poulliot. There were several items requested from the last meeting and from the Site Review.

Request from the Meeting on the 15<sup>th</sup> of November:

1. A written deeded right of way for access road to the boat landing.
2. A drawing of a plan to shield the dam to keep the public away from the remaining structure.

3. A request from the Maine Historical Preservation Commission commentary report.

Request from the Site Review on the 30<sup>th</sup> of November:

1. Question on the ownership of the land to be used for accessing the Dam in order to do the breach.
2. Questions on who will be the owners of the approximate 260+/- acres of land that will emerge from the dewatering from the breach.
3. Will the Power House be maintained as a historical building?
4. Who will be responsible any damage or possible damage to Pleau's building that is adjacent to the structure?

Mr. Manahan addressed the questions in a summary as following:

FPL submitted a large package by e-mail and next day hard copies for the Board Members. They incorporated the nine questions from the site visit and the other concerns into the package. There was a letter in the package stating the attachments A thru M that would answer the questions and concerns.

Chairman Parker wanted on record that the Board Members had just received the package that night and he received his that morning and had not had a chance to review it. Mr. Lee had gone thru a portion of it.

1. Ownership of boat launch; section A has all the source deeds and maps. The flowage deeds are in the package. They do not have a deeded ownership of that property; it is their (FPLE) position that they own the land by adverse possession.
2. There are several deeds to the access road ownership to the south side of the dam and the carry in boat access. FPLE owns the access road by virtue of the 1907 deed (see enclosed Attachment C). The road turns east and passes over land owned in fee by CMP, FPLE holds an access easement over that land by deeds recorded at Book 2899, Page 95, Book 5913, Page 294, Book 5007 Page 297, enclosed Attachment F and Attachment E.
3. FPLE has a contractual responsibility with CMP to maintain this road.
4. The owners of the land that will be exposed after the partial dam removal will be the same owners of that land today; FPLE does not propose to transfer ownership of any land as part of this project. Boundary markers are a private matter to be addressed by the affected landowners and in the event of a dispute by the courts. See consolidated Application Binder Tab 4.
5. Exhibit G information, (Attachment A) gives properties and boundaries that will be affected in the Town of Winslow along with book and pages.
6. FPLE has a contractual obligation to maintain the powerhouse in good repair and condition with CMP. FPLE must maintain the structure for ten (10) years. (Attachment E)
7. The property where the temporary road will be built is deeded property to FPLE. (Tab 5 of the Consolidated Application Binder)
8. The diagram for the fencing securing the remaining portions of the dam is in Attachment M.
9. FPLE does not anticipate that there will be damage to Pleau's Market and will make every reasonable effort to prevent damages. If despite these efforts, FPLE is found to be liable for any damage to Pleau's Market, FPLE will repair that damage.
10. The 500 Year Flood condition stability is found in Attachment N.

Mr. Manahan stated the FPLE didn't chose to be here they are not in the business of removing dams, it is subject to negate the DEP permit and agreement that a fish lift be installed by 2003 and to install a fish lift would require an amendment to the KGG agreement at this time the agreement only allows for dam removal.

Frank Stankevitz, CEO explained to the Board about an erosion and sediment control plan that was put forward at a different site. The Board approved the plan but DEP was called. DEP stated that there can not be any ground water or dirt leaving the site and that it was the Planning Boards duty to make sure no erosion leaves the site. Mr. Stankevitz recommends that FPLE submits an erosion and sediment control plan that address those issues such as the fishers the streams, brooks and runoffs that require check dams that would be caring silt into the water. If it is an issue with one citizen of our town than it should apply to FPLE. There has only been on paregraph stating that they are going to let it naturally vegetate and inspect the site and reseed the areas that don't naturally re-vegetate with a conservation mix. Mr. Newkirck explained what would happen without a management plan in place.

Mr. Manahan stated that DEP does require an erosion and sediment control plan, the requirements can be found on page 35 of the DEP permit. DEP must review the plan and approve of it prior to dam removal. All requirements for DEP can be found in this section. Also the insedenital take plan can be found in this section as well. FPLE has the necessary documents from Inland Fisheries and Wildlife for the incidental taking of the mussels.

At this point meeting was opened to Board questions.

Mr. Keene believes there are two ordinances that apply and to look at each requirement to see if they are meet. The Board should look at each item under the ordinances to see if FPLE has complied with the requirements.

Mr. Manahan stated that they applied for the permit under the Shoreland Zoning, Flood Plan Management and the Temporary Use Permit. Those were the only permits that the Board required back in April of 2003.

Mr. Lee stated the Planning Board meeting in February 27, 2003, voted and found jurisdiction under a number of different provisions under the Shoreland Zoning, Temporary Use Permit and a section under the Flood Plan Management program, they did not vote to say this was going to come under the site review provisions of the 2003 vote and this is a continuation of that process.

Mr. Manahan and FPLE had meeting with Peter Beckerman and FPLE applied for these permits on Mr. Beckerman's recommendation.

As Mr. Keene has reviewed the Town Ordinances these past few weeks he believes that the vote taken in 2003 was a mistake and now wonders where it puts us if we are not using proper procedures to exercise appropriate authority to do what our ordinances require.

Mr. Lee stated that the matter was discussed with the attorneys at the time and the Board voted as indicated. Reviewing the Site Review Ordinance does not apply to this but the Shoreland Zoning

Ordinance does as this an alteration of a structure with in the shoreland ordinance. This is not a new application; it was a finding from the Board of Appeals to table this application while FPLE was in litigation.

The question was asked about the life of a DEP permit, the one in the package was issued in 2004. Has FPLE extended the permit from DEP and if so a copy of the extended permit needs to be provided

FPLE will provide a copy of the extended permit.

Board Issues

**1. Public Safety** - There would be a 3 foot wide by 6 foot high security gate with fixed panels on each side and no trespassing signs.

Access could be from the upside river side of the dam with no water. FPLE stand is that the gate and no trespassing sign will be adequate as it is private property. Compared it to a train trestle, there are dangers out there with respect to structures and people need to take common precautions.

Mr. Browning - would like to see a deterrent so that the public could not get over the 6 foot fence.

**2. Flowage** - With a lower rate of flowage access to the remaining portions of dam would be easily assessable.

Mr. Straz ran some models and to his surprise the breach opening has water at all times from a half a foot under the lowest flow conditions to a foot and half at a 1000 cfs. The rendering was accurate.

Mr. Carter does not agree with the deliberations on safety of that area, when the railroad was not going to use certain tracks, removed those tracks completely, more needs to be done on the remaining portions of the dam.

The south side on the buttress has graffiti, could see the remainder of the structure being used for graffiti. The graffiti was by the presence of the sign.

Mr. Manahan stated that FPLE would have to rely on the Winslow Police to the area, it is private property.

**5. Sewer line** - Any plan in place to stabilize the sewer line? FPLE has sent a proposal to the Town, and will be reviewed by the Council in January. But did not go over the specifics of the proposal. FPLE does not believe they are responsible for the sewer line.

**6. Eagle's nest** - There is concern on the eagle's nest 512A and their habitat; municipal government may not permit a project that would significantly alter the habitat of any species that is designated as threatened.

Inland Fisheries & Wildlife stated that the eagles would benefit from the dam removal; the lower water level will encourage eagle foraging and enhance eagle recovery. Found on page 18 of the DEP permit.

Mr. Fletcher has concerns on the taking of the land by adverse possession because of the implications that if the person has flowage for 20 years becomes the owner of that property.

FPLE retains ownership both by descriptive and adverse possession. A brief explanation was given about the differences

Chairman Parker posed the question if the application was complete. Motion by Roy Strahan was made that the application was complete. Seconded Richard Browning. There was discussion on the completion with Elery Keene stating that he does not feel the Board has had enough time to review all the material to know if it is complete. The question was posed on the permitting by FERC was still valid. They do expire in two (2) years and yes FPLE has an extended permit will get the Board a copy of it. What happens to the houses on the impoundment that sits right on the embankment? A vote was taken on the application as complete. It was voted not complete.

Vote – 2 in favor 3 against.

Next meeting will be January 10, 2008 as a special meeting to review the completion of FPLE's application for breaching of the Fort Halifax Dam. Motion made by Mr. Keene. Seconded by Mr. Poulliot. Vote – all in favor.

Motioned to adjourn made by Mr. Strahan. Seconded by Mr. Keene. All in favor.

Next meeting January 10, 2008 at the Winslow Council Chambers at 7:15.