

DRAFT
Town of Fitzwilliam
Planning Board Work Session
June 16, 2016

Members Present: Terry Silverman, Paul Haynes, Mac Landy, alternate, and Nancy Carney, Selectman's Representative.

Others Present: Eversource Team: Allwarden, Tarr, Plante, Boivin, Jiottis, Purington, Brewes; Abutters Dana and Cheryl Pinney, their attorney Jason Reimers, and abutter Robert Ford.

Call to Order: 7:00 PM

Silverman made a motion to go into non-public session under RSA 91-A:3 II 1, to discuss legal counsel recommendations. Landy seconded and the Board adjourned to the Selectmen's office to discuss these matters. At 7:10 PM the Board came out of non-public session.

Silverman called the public meeting to order at 7:15 PM. Silverman moved, Landy seconded and the Board voted unanimously to seal the minutes of the non-public session.

Attorney Chris Allwarden introduced the Eversource team attending for this work session regarding the Memorandum of Understanding between the Planning Board and Eversource. He reviewed the previous meeting, noting its focus on the sound engineers findings and recommendations. Allwarden has incorporated the edits to the MOU offered by Arthur Cunningham, Town attorney for this case, Robert Ford, attorney and abutter, and Jason Reimers, attorney for the Pinneys. He also incorporated Eversource comments in the margins. He distributed color copies of the MOU and Appendix A, regarding the sound wall.

The Board and Attorney Allwarden reviewed all the edits.

Reference to the Open Space plan will remain with the date removed. Landy noted that the Open Space Plan focused on high value areas in town.

There was discussion about the reference to the outage schedule, which dictates the period when work on the sound wall can be done, as well as when work on the Q166 line can be connected to the substation.

Reference to Appendix A regarding the intended purpose of the sound barrier was left in the MOU.

Reimers, speaking for the Pinney's, noted that their underlying concern is what happens if the wall does not meet the 9.7 decibel reduction to be achieved by the sound wall. He emphasized that this is a commitment of Eversource to build the wall that meets the stated standards in Appendix A.

Pinney raised the question of options to the proposed sound wall the David Coate, town sound consultant, stated at the last meeting. Ian Brewes noted that Coate referred to options that he acknowledged were not realistic or feasible in a retrofit. Jiottis said the wall has been designed to work and if it doesn't Eversource will look first to modify the wall. Silverman said the Town is not going to impose any specific means to achieve the goals.

Following discussion about what could happen to delay completion of the wall, regarding Paragraph 1.(a.) Allwarden suggested adding deleted language "outside factors effecting the construction of the sound wall." Silverman suggested adding "as soon as outside conditions pass, the sound wall will be completed as soon as possible.

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Jiottis stated that if an outage is missed, it is beyond their control to change. Ford suggested that in the event of a missed outage, Eversource will commit to working hard to move the project forward. He also suggested sending the MOU and Appendix A back to Attorney Cunningham to review.

There was some discussion about the sound impact on the VFW building. Brewster said he and Coate had modelled the effect of a third side wall on sound at the VFW and found that at 27 decibels ambient noise, which is very low, there was no change to the sound level with addition of a third side wall. They agreed there were no additional benefits to having a third side wall.

Attorney Reimers asked about wall degradation, since there is a lifespan noted for the wall there must be deterioration. He wanted to insure that Eversource will maintain the wall over its lifespan. Landy asked about the half-life of a transformer. Jiottis said it depends on what is going on around the transformer.

Silverman noted that Attorney Cunningham feels that the Town be indemnified from any lawsuit arising from the substation and sound impacts, i.e. that the Town should not be liable. Allwarden said he would discuss language with Attorney Cunningham, if it please the Board to do so. The Board agreed.

Moving on to the plantings sections, Ford recalled that Board member Robin Blais was very concerned about the plantings being maintained by Eversource in perpetuity. Attorney Reimers asked about their plans should DES deny the permit to plant. Tarr noted that there had been pre-application meetings with DES and their comments were incorporated in the plan. Tarr said the only reason they needed a DES permit is because they will be using equipment to do plantings of the larger trees. If the permit is denied, they will plant by hand, which may mean the trees will be smaller, at least initially. She added that the other planting areas do not need a DES permit. Allwarden said he will add language stating that if they do not get the DES permit, Eversource will develop an acceptable planting plan.

Attorney Reimers wondered if conditions could change and all the planting were wiped out. Silverman noted that plantings initially planned for the substation were wiped out when fill was brought in.

Regarding 2.(b.) stating that should "Eversource tree trimming standards or specifications ever be subject to revision..." the suggestion was made that the Planning Board could add mitigation conditions to its approval of any change in regulatory requirements or directives.

Tarr noted that Eversource will meet with the conservation Commission on Monday, June 20th and she will discuss timing with them.

There was some discussion regarding the Q166 line and the sound wall construction. Silverman said the Board has no problem with the Q166 line as long as the sound issue is resolved. Attorney Reimers suggested that Eversource provide bonding to insure the wall is built. Ford noted this is industry practice, adding that it is security for the town in case Eversource defaults. Allwarden said the MOU is strictly between the Town and Eversource. He added that the MOU commits Eversource to building the wall, estimated to be about \$1M, and wondered if a bond was necessary given this commitment.

Silverman noted that bonding in this case is different in that no one but Eversource can build this wall, adding

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June 16, 2016

that we have to take Eversource at its word, and he personally thinks it may be K not to bond. He said the MOU is different from a notice of decision, which will have specifics. There will be a notice of decision for the site plan review and for the Q166 line. Section 3. (a.) refers to public hearings and plans and specifications. This language will remain for the moment.

Allwarden asked about the next thing to be done, a construction permit for the Q166 line? Silverman said a construction permit would not be issued until the Planning Board had approved the site plan. Caney noted that they could apply any time, but would have to wait for Planning Board approval before it is issued.

Allwarden said the sound wall has to wait until the Q166 approval is secured, at which time the sound wall project could move forward. He modified that with the two projects will move in tandem. The first part of the outage is necessary to start construction on the sound wall and the Q166 will need the last part of the outage when the Q166 is ready to connect to the substation.

Silverman felt that 3.(d) of the MOU was insulting, adding that nothing the Board does is behind closed doors. Allwarden will remove that language.

Appendix A to Memorandum of Understanding (MOU) between Public Service Company or New Hampshire and the Town of Fitzwilliam, Sound Wall Conditions, a provision will be added to #2., stating that Eversource agrees to perform testing of the functioning of the sound wall in its 20th year.

There was some discussion about Appendix A., #4 regarding project that are under the jurisdiction of the SEC (Site Evaluation Commission). Silverman wants the MOU to apply to all projects in Fitzwilliam, even those under the SEC. He wants a town site plan review for all projects even if the SEC has jurisdiction. The intent of this language is to abide by the MOU even if the Sec has jurisdiction.

Allwarden will incorporate the changes discussed at this work session and distribute copies to the Board. He asked if another work session was needed. The Board will see if members can attend a session On Tuesday, June 28th at 7 PM.

The meeting was adjourned at 10:00 PM.