

TOWN OF FITZWILLIAM
PLANNING BOARD
AGENDA

TUESDAY, APRIL 17, 2018
7:00 PM

Administration:

2nd Informational Update on Solar

Solar Conditional Use Permit Form

Scenic Road Information

Master Plan BMPs

Minutes from 4/3/18

NextEra Selling Solar and Wind Portfolio in Ontario

Posted by
Betsy Lillian

April 2, 2018



NextEra Energy Partners LP has entered into a definitive agreement with Canada Pension Plan Investment Board (CPPIB) for the sale of its portfolio of wind and solar generation assets in Ontario.

NextEra is selling the assets for a total consideration of approximately \$582.3 million, including the net present value of the operations and maintenance origination fee, subject to customary working capital and other adjustments, plus the assumption by the purchaser of approximately \$689 million in existing debt. An affiliate of NextEra Energy Resources will continue to operate all of the facilities included in the transaction under a 10-year services agreement with CPPIB.

The transaction includes the sale of six fully contracted wind and solar assets with an average contract life of approximately 16 years and 10-year average cash available for distribution (CAFD) of \$38.4 million. The portfolio has a combined total generating capacity of approximately 396 MW:

- Bluewater, a 59.9 MW wind facility;
- Conestogo, a 22.9 MW wind facility;
- Jericho, a 149 MW wind facility;
- Summerhaven, a 124.4 MW wind facility;
- Moore, a 20 MW solar facility; and
- Sombra, a 20 MW solar facility.

NextEra Energy Partners expects the sale to close during the second quarter. The transaction is subject to receipt of regulatory approvals and satisfaction of customary closing conditions, the company notes.

"We are pleased to reach this agreement with CPPIB for the sale of our Canadian portfolio, which we expect will be accretive to NextEra Energy Partners' long-term growth," comments Jim Robo, chairman and CEO. "The sale of these assets, at a very attractive 10-year average CAFD yield of 6.6 percent, including the present value of the O&M origination fee, highlights the underlying strength of the partnership's renewable portfolio. As discussed during our earnings call in January, we expect the sale of the Canadian portfolio to enable us to recycle capital back into U.S. assets, which benefit from a longer federal income tax shield and a lower effective corporate tax rate, allowing NextEra Energy Partners to retain more CAFD in the future for every \$1 invested. We expect to accretively redeploy the proceeds from this transaction to acquire higher-yielding U.S. assets from either third parties or NextEra Energy Resources."

NextEra Energy Partners continues to expect a Dec. 31, 2018, run rate for adjusted EBITDA of \$1.00 billion to \$1.15 billion and CAFD of \$360 million to \$400 million, reflecting calendar-year 2019 expectations for the forecasted portfolio at year-end 2018.

Citi and CIBC Capital Markets are serving as financial advisors to NextEra Energy, and McCarthy Tétrault LLP and Gowling WLG (Canada) LLP are legal counsel.

Danica's note- see the date this article was written!

discussed
at PB 4/3/18
revised
4/5/18



Fitzwilliam Planning Board

13 Templeton Turnpike
PO Box 725
Fitzwilliam, NH 03447
(603) 585 - 9119
fitzlanduse@fitzwilliam-nh.gov

FOR OFFICE USE:

Date Received: _____

Filing Fee Amount: _____

Check Number: _____

Application for Conditional Use Approval – Solar Energy Systems

THIS APPLICATION IS ONLY FOR UTILITY- AND COMMUNITY-SCALE APPLICANTS!!

If you are a resident who wishes to install solar, you do not need this permit.

Residents only need to submit a Construction Application with the Board of Selectman. Applicants looking to install Utility- or Community-Scale must submit both a Construction Application AND this Conditional Use Permit Application.

1. Name of Applicant/Owner _____

2. Mailing Address _____

3. Phone _____

4. Name of Owner's Authorized Agent _____

5. Authorized Agent's Phone _____

6. Location of Subject Property _____

7. Tax Map # _____ Lot # _____ Land Use District _____

8. Is the project within the Wetlands Protection Overlay District (within 75 feet of wetlands) or in wetlands?

Yes No

If yes, what is the setback from wetlands? _____

11. Check all that apply:

a. I am applying for a:

Ground-Mounted Solar Energy System

Roof-Mounted Solar Energy System

b. The scale of the Solar Energy System will be:

Community Scale, with intent of benefiting the Town and its residents, generates between 15 kilowatts and 1 megawatt of electricity

Utility Scale, consisting typically of large arrays or farms with the purpose to sell power to the open market, generates 1 megawatt of electricity or greater

Fitzwilliam Planning Board

13 Templeton Turnpike
PO Box 725
Fitzwilliam, NH 03447
(603) 585 - 9119
fitzlanduse@fitzwilliam-nh.gov

12. Are other town, state, or federal permits/approvals required? Yes No

If yes, describe _____

13. Estimated start date: _____ Estimated completion date: _____

This application must be accompanied by:

- 1) A complete site plan,
- 2) List of names and mailing addresses for all abutters within 200 feet of all boundary lines, and
- 3) All application fees and notice costs – checks payable to the Town of Fitzwilliam. Please reach out to the Land Use Department with any questions!

The undersigned hereby requests a Conditional Use Permit for the above referenced project from the Planning Board. I understand that prior to formal review, the Planning Board will first review this application and supporting materials for completeness and if found to be incomplete, the application will not be processed. In making this application, I also understand that any special engineering costs incurred as a result of the review of this plan must be paid by the applicant prior to final action by the Board. I further agree to grant the Town of Fitzwilliam and its agents, permission to enter upon the property for the purposes of inspection regarding this application.

Signature of Owner

Date

Signature of Owner's Agent

Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

DRAFT

Town of Fitzwilliam
Planning Board
Tuesday, April 3, 2018
Meeting Minutes

Member's Present: Terry Silverman, Chairman; Ross Tourigny; Suzanne Gray, Vice Chair; Robin Peard Blais, Secretary; Paul Haynes; Matt Buonomano; Charles Kenison, Selectman's Rep; Robert Young, Alternate;

Member's Absent: Carlotta Pini, Alternate;

Other's Present: Pam Monroe, Administrator for the New Hampshire Site Evaluation Committee (SEC); Nancy Carney, Selectmen;

CTO: 7:00 pm

Discussion with Pam Monroe from the NH SEC. 7:00 pm.

Monroe distributed a packet of presentation materials for the Board members regarding the SEC (hard copies are available for review in the Land Use Department or can be emailed digitally.) Monroe explained her role and relationship with the SEC Board and explained that her role is also to aid the public with how they may participate in the SEC process.

Monroe began by explaining that 30 megawatts is the jurisdictional threshold where the applicant is required to go before the SEC to review the project to ensure it meets state regulations. Below the 30 megawatt threshold, Monroe continued, the public may petition the SEC to review the proposal, where the SEC will then take jurisdictional review. Monroe then discussed the purpose statement and statute surrounding the SEC's responsibilities and roles in evaluating site plans for utility companies. Explaining that it is to avoid undue delay in the siting of those, balance the impact of the energy facility, to address the environmental consequences, and provide a full and complete public disclosure on the project.

Monroe explained that goal of the SEC is to act as "a one-stop shop" where applicants may find all the applicable applications and permits they would need to site an energy facility. Monroe discussed that some of these permits may include Wetlands and Shoreland Permits, and driveway permits from the DOT, adding that her role is to receive all applicable applications as a single package from the applicant which she then sends off to their respective agencies for review.

Monroe discussed that state law requires there to be nine SEC commissioners. Monroe explained that the SEC is comprised of the 3 Public Utility Commissioners, the Department of Environmental Services Commissioner, the Department of Transportation Commissioner, the Commissioner of Business and Economic Affairs, the Commissioner of Natural and Cultural

44 Resources, and two Public Members who are approved by the Executive Council and Governor.
45 Monroe lastly added that the SEC also includes one Alternate Public Member who only sits on
46 the Committee in the event that one of the Public Members has to recuse themselves or cannot
47 make the meeting.

48

49 Monroe then discussed the role of the subcommittees, which are comprised of 7 appointed
50 members by the Chair of the SEC. Subcommittees typically consist of 5 agency members and the
51 same 2 Public Members of the SEC. Monroe also noted that it takes a quorum of 5 out of the 7.
52 The Commissioners of the 5 agencies may appoint someone to sit in in place for them on the
53 subcommittee at their discretion. Monroe paused to open it up for questions or discussion and
54 there was none.

55

56 Monroe moved on to discussing opportunities for public participation. Monroe explained that
57 prior to filing an application with the SEC, any applicant to the project is required to hold a Pre-
58 filing Public Information session held in the community which must be at least 30 days before
59 the applicant files their application. Monroe added that written public comments are accepted
60 throughout the hearing process, whether that be emails, written letters, or otherwise, and they
61 are both distributed to the SEC members and posted on the SEC website for public review. Once
62 the application is filed, Monroe reiterated that she receives it and then forwards the application
63 to all of the agencies involved. The agencies reviewing are asked to ensure that all the
64 information required for completion has been included. Monroe explained that within 60 days
65 of filing the application, the SEC has to meet and deliberate at a public meeting. This public
66 meeting would address if the application is administratively complete.

67

68 Monroe described her involvement with the Pre-filing Public Information Sessions, adding that
69 it is her duty to coordinate those events. Monroe explained that there is usually a presentation
70 by the applicant as well as by the SEC to describe the application process and the proposal.
71 Monroe explained that at the end of the Pre-filing Public Information Session, they hold a
72 question-and-answer forum where the SEC records all questions and comments. Monroe
73 clarified that the Public Information Session is held within 45 days following the 60-day period
74 for the SEC to review the application and hold the first public hearing.

75

76 Monroe then discussed that after the 45-day period for the Public Information Session, the SEC
77 then has 90 days to hold another public hearing to allow the public to come back and provide
78 further input, describing it to be a similar proceeding to the initial public hearing, which allows
79 for public comment and question.

80

81 Monroe referenced Slide 11 which discusses how a town/organization/individual may file to
82 intervene. Monroe described the SEC hearings to be similar to a courtroom case and therefore
83 those who file to intervene are allowed to have lawyers, speak for themselves, and/or file suits.
84 Those filing as interveners are asked to submit in writing about why they have a right, duty, or
85 privilege to intervene on how they may be affected in some form by the ruling, and that it is in
86 the interest of the Justice to allow them to intervene. The SEC is allowed to group interveners
87 by similar interest, such as abutters to the project versus non-abutters to the project. Monroe
88 paused again to open it up for questions and discussion; there was none.

89
90 Monroe added that there is opportunity in the community for community members and/or
91 Board members to participate in these hearings as an intervener. Monroe noted that interveners
92 are allowed to contest the SEC decision to approve a certificate for the applicants by taking it to
93 the Superior Court. Monroe referenced how interveners of the Antrim Wind Project are
94 currently appealing the SEC's decision with the Superior Court and are awaiting their decision.

95
96 Monroe then moved to Slide 13 which discussed Council for the Public. Monroe explained that
97 there are provisions in the statute to provide a Council for the Public. Monroe explained she
98 contacts the Attorney General who appoints a Council for the Public for the case. Monroe
99 clarified that the council is there to represent the whole general public, and no one individual,
100 property, organization, etc. Monroe described the statutory charge for the Council for the Public
101 as protecting the environment while seeking to ensure an adequate supply of energy. Councils
102 for the Public are allowed to file motions to employ consultants, and Monroe referenced how the
103 Council for the Public during the Northern Pass proceedings did just that in order to bolster the
104 public's legal representation.

105
106 Gray asked for clarification if the Council for the Public was just for when there was an
107 intervention or if it was for any proceeding. Monroe clarified that it was for any proceeding;
108 adding that the Council of the Public may sometimes take an adversarial role and/or may
109 employ an expert on a subject so that the committee may make an informed decision about the
110 project. Monroe then discussed that, for example, during the Antrim Wind Project, a main
111 concern by the interveners was visual impacts. In response, the Council for the Public employed
112 an aesthetics expert who was able to evaluate and present a report on those impacts and the
113 potential deficiencies in the applicant.

114
115 Monroe added that the interveners in the proceeding typically file before the first public hearing.
116 Monroe explained that all agencies and committees have to report back to the SEC within 150
117 days with comments such as a draft of conditions or need for additional information. Monroe
118 added that all of this information would be available online. After that point, Monroe explained
119 that the final agency decision is made within 240 days. During this 240-day time period,
120 Monroe explained that there is discussion, including technical sessions such as "mediated
121 discovery." Monroe clarified that the 240-day period comes before any Public Hearings begin.
122 Monroe then explained that at that at the end of 240 days, the SEC begins procedural ordering
123 to plan for how the case hearing will be laid out and scheduled, such as who will give testimony,
124 who will be witnesses, time estimates for certain parts of the case hearing, and more.

125
126 Once all the evidence is in, sometimes the SEC may ask for additional information before
127 making a final decision on issuing a certificate. Monroe explained that the written order must be
128 out within 365 days, however, if delaying the proceeding is in the public interest then they are
129 allowed to change the timeline, pursuant to state statutes.

130
131 Monroe then moved on to Slide 16 which discusses the criteria of findings for the SEC to
132 deliberate on. The SEC bases their findings on all of the evidence they've heard, including
133 submission of written reports or comments that are filed. Monroe added that the rules also note

134 that the SEC is to give due consideration to the Regional Planning Commission as well as the
135 local governing municipal body. Monroe added that the findings include that the project must
136 not have unreasonable impact on aesthetics, historic sites, water quality, natural environment,
137 health and public safety, and be serving the public interest.

138

139 Buonomano discussed that one of the things the Board had found in their research was that in
140 order to maintain the grounds, some installations will use herbicides at the site and therefore
141 there was runoff issues, while other sites allow the vegetative cover to grow without
142 maintenance. Monroe responded that it would fall under rules for the SEC and that concern
143 would likely be addressed by the environmental agency. Monroe further explained that the rules
144 depend on the type of facility and then read from the SEC rules that the SEC reviews site
145 acreage, the property map, wetlands, surface water, abutting properties, among other things,
146 and therefore the question Buonomano posed would likely come up in review of all of the
147 required findings.

148

149 Monroe finally discussed the last slide which presents the related statutes and rules for the SEC,
150 reiterating that the information can be found on the SEC website. Monroe then opened it up for
151 discussion.

152

153 Silverman asked if the Town can weigh in on whether or not the SEC can take charge of a project
154 under 30 megawatts and Monroe responded they are allowed to ask the SEC to take jurisdiction
155 by petition. Silverman asked if the local ordinances could be used as intervening evidence and
156 Monroe responded that they absolutely can and explained that the Town may submit that
157 information, such as those pertinent ordinances, to the SEC through prefilled testimony.
158 Monroe added that the SEC votes yes or no on a case, however they have the ability to require
159 conditions of approval. Silverman asked if the applicant is required or given a form of panel
160 questions/ guidelines to follow for the Pre-filing Public Information Session in order to obtain
161 public input. Silverman discussed, for instance, when Kinder Morgan came to Fitzwilliam for
162 Pre-filing Public Information Sessions, they did very little to collect community input on the
163 project proposal.

164

165 Gray added that she also attended several of the Kinder Morgan meetings and noted that she
166 was disappointed that the meetings were essentially Kinder Morgan talking at those attending
167 without really taking time for discussion or allowing input from the community. Gray then asked
168 Monroe if she could clarify if there were any guidelines as to the amount of time the applicant is
169 "talking at" those in attendance and how much time is supposed to be set aside for the public to
170 ask questions and comment on the project. Monroe referred to the statutes and read that the
171 Pre-filing Public Information Session is to present information regarding the project and to
172 provide an opportunity to gather comments and questions from the public to be addressed by
173 the applicant, and whether or not questions are answered immediately at that meeting is at the
174 discretion of the applicant. Gray asked to clarify that the statute did say an opportunity for public
175 input and Monroe confirmed that it said it was to provide an opportunity for "comment and
176 questions."

177

178 Gray and Silverman asked Monroe if the Board had any latitude to request that the applicant
179 give the community opportunity to ask questions and give comment in a way that would not
180 consist of those in attendance having to approach tables individually with their
181 questions/comments. Gray added that the Board would like to see community members given
182 the opportunity to be handed a microphone to voice their opinion to the applicant so that others
183 in attendance may also hear the question/comment and response. Monroe responded that the
184 SEC does not have the ability to dictate how the Pre-filing Public Information Session is
185 handled, but did reference the rules, under 2.101, regarding the Pre-filing Public Information
186 Session which outlined the time tables and public noticing for the meeting. Monroe suggested to
187 Silverman and Gray that the Board reach out to the developer with their concerns for how the
188 meeting is handled.

189
190 Silverman asked if the interveners have access to express concerns to the appointed council, to
191 which Monroe responded yes. Gray asked in what format that typically happens and Monroe
192 said in her experience, depending on who is appointed, they usually will take calls, respond to
193 emails, etc. Monroe reiterated that the purpose of the Council would not be to serve an
194 individual or group but to serve the interest of whole public.

195
196 Tourigny asked if statistically, as an example, if there are setback differences between the local
197 and state statutes and if the Planning Board were to weigh in heavily on the issue of a higher
198 setback requirement for the Town, would the SEC be more likely to rule in favor of the Town.
199 Monroe explained that by the statutes they have to consider Town input. Monroe added she
200 could imagine the SEC asking questions such as when the Solar Ordinance was passed; if it was
201 only proposed and passed due to the proposed project; or what the purpose of a 75 foot wetland
202 setback over a 50 foot wetland setback is.

203
204 Buonomano asked if the SEC was neutral to the type of proposed energy projects, asking if there
205 is an interest in the State for increased pipelines, solar, or wind capacity. Monroe responded that
206 there is a provision about energy supply in the statute, and then noted that one of the
207 considerations is in the public interest determination, under 301.16, which says they have to
208 consider the welfare of the population, public interest, private property, the location and growth
209 of industry, and more. Buonomano asked if there are questions the SEC asks about the siting of
210 the proposal, going on to discuss how Fitzwilliam is a good distance from any of New
211 Hampshire's more populous centers and therefore is concerned about loss of energy along
212 transmission lines. Buonomano also noted that he is concerned about the issue of snow covering
213 panels and wonders if the SEC questions applicants about their choice of project siting. Monroe
214 responded that no, they are to rule only on the project in front of them however alternative
215 scenarios could be suggested during the hearing process for the applicants consideration.
216 Buonomano asked if the SEC had ever reviewed any solar projects and Monroe responded no,
217 the SEC has not had any come before them.

218
219 Young asked Monroe if there are rules for what the assessed value on the facility is in regards to
220 how it may affect the Town's tax base and school funding formula. Monroe explained that in the
221 context of siting, the applicant would likely present itself as a benefit to the tax base of the Town.
322 Young asked if the SEC has any rules on how they assess the value of the utility and Monroe

223 responded no and that it would come up in the context of the fully litigated cases and it would be
224 played out in the context of the case details and evidence presented. Monroe added that the SEC
225 has to make their decision based on financial, technical, and managerial capabilities; that it will
226 not unduly interfere with the orderly development; and will serve the public interest.

227

228 Buonomano asked about when the subcommittee is formed if those Public Members are
229 appointed or apply. Monroe clarified that they have fixed terms and are appointed by the
230 Governor and confirmed by the Executive Council. Monroe reiterated for Buonomano that those
231 two Public Members sit in on all of the subcommittees and are on the docket for all such
232 meetings.

233

234 Silverman asked about public interest and if that was defined as local public interest or general
235 public interest. Monroe pointed to the rules where it provides a general definition, noting that it
236 is a brand new provision in the law that has yet to be tested. Gray asked for clarification about
237 the public interest and Monroe responded that the SEC has to find that the issuance of the
238 certificate will serve the public interest. Silverman discussed that the proposal won't ameliorate
239 the Town's cost of electricity in any way, it won't help business, it may negatively impact tourism
240 in terms of viewsheds, and the Town would end up with those burdens such as wetland impacts
241 and the dissecting of the land. Monroe responded that those issues should be brought up during
242 the intervening proceeding and from there, the SEC ultimately rules based on the information
243 provided.

244

245 Silverman asked if Prime Wetlands has any increased value for consideration from the SEC and
246 Monroe responded that wetlands would be reviewed by DES, who review the application and
247 report back to the SEC and may include conditions to protect those features. Blais asked if other
248 state agencies, such as Parks and Recreation, were allowed to come to the Pre-filing Public
249 Information Session and speak/present. Monroe respond under statute 162 H7-a that those
250 state agencies, at their discretion, are allowed to come and participate. Monroe added that it's
251 also possible for subcommittees to request a state agency to attend a meeting or hearing, and
252 typically those agencies oblige.

253

254 Buonomano asked if ISO New England was included as a state agency and if they are consulted.
255 Monroe said no they are not involved or consulted. Monroe described that there are similar
256 cases where communities have requested ISO New England to be involved and they have
257 declined. Monroe discussed that the SEC looks at 'reliability projects' over 'merchant projects.'
258 'Reliability projects' which are where there is a need for more energy in order to keep
259 communities "lights on" while 'merchant projects' are not.

260

261 Gray explained that in the past, the Town has worked with Eversource and they commonly told
262 the Board their project design would be in such a way because ISO demands certain features.
263 Gray added that the Board feels like they are unable to hear from ISO directly that when the
264 applicant says they need something, it actually is required. Monroe suggested researching ISO
265 New England's rules and regulations, as well as reading through their published minutes.
266 Monroe added that interveners have the opportunity to bring up those issues about ISO at the
267 proceedings.

268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311

Tourigny asked how far along in the process the administrator (Monroe) works with the project and she responded that part of her responsibility is to determine the compliance of those certificates issued. Tourigny asked if she takes into account any follow-up feedback from communities and she added that she usually doesn't unless there's dispute, but otherwise her role is for review and determining compliance of the certificate, but if she does receive complaints she does investigate them.

Carney asked, for instance, if a company said they were going to produce a certain amount of energy, so as to bypasses local regulation and be reviewed by the SEC, what happens if they don't ever produce that amount of energy? Carney asked if there was a process by the SEC to ensure that the applicant will produce the amount of energy proposed. Carney clarified by adding that if a 30 to 35 megawatt project approved by the SEC and then afterwards the applicant only produces up to 25 megawatts, what would happen? Monroe responded that in the certificate issued could have conditions that says "thou shalt produce x amount of energy" and that they would be bound to produce that amount. Carney asked what happens if there are issues with production based on weather impacts such as snow cover, and if there would be opportunity for evaluation of the project post-certification. Monroe responded that evaluation of energy production may be required as a condition to the certificate and would likely be discussed within the context of the proceeding.

Young asked to clarify if the 30 megawatts meant 30 megawatts peak production or 30 megawatts averaging per month. Monroe responded that it says in the statutes that the 30 megawatts is defined as a project "designed for or capable of." Young reiterated that he was concerned about the loose definition to which Monroe restated that if the project was to be producing under the 30 megawatt threshold, the Town would be able to file a petition that the SEC would not have jurisdiction in the case.

Suzanne discussed that she had reviewed the Fitzwilliam Natural Resource Inventory (available in the Land Use Department for review) and that on page 47 is a map which define wildlife habitat by 3 tiers. Gray noted that the area in which Chinook Solar was proposing their project was qualified as a tier 1, a highest ranked area for wildlife by New Hampshire Fish and Game. Blais commented that it was likely no longer, considering most of the area has been logged in preparation for the proposed project. Monroe responded that the SEC has to take into consideration impacts to wildlife, habitat, vegetation, and other natural features.

Young asked if the SEC requires buffers or screening requirements such as along roads and Monroe said that the rules have provisions that the project can't have unreasonable impact on aesthetics and that they have to provide a visual impact assessment. Monroe added that the rulebook includes provisions to mitigate any aesthetic impacts as well as other requirements such as photo simulations, inventory of aesthetic resources, and more. Monroe further explained that it is the burden of the applicant to show the committee that they are meeting all of the requirements.

312 Silverman asked if the Antrim Wind Project was reduced at all and Monroe responded that yes it
313 was, adding that they took out one of the turbines and reduced the height of another. Young
314 asked about the background of those who sit on the SEC and Monroe responded that all
315 members of the SEC have to submit a disclosure form explaining where they derive their income
316 from, as well as where their spouses do, in order to help avoid any future issue with bias. Adding
317 that there is very careful consideration to make sure those Commissioners are not biased.
318 Silverman asked if SEC Commissioners would recuse themselves if there was previous
319 interaction with the Town, such as working on a project that the Town petitioned against, and
320 Monroe explained that it is at the discretion of that member if they need to recuse themselves.
321
322 Silverman asked if there was any further discussion and there was none, and the Board thanked
323 Monroe for her time and work with the Board.
324
325 **Minutes of 3/20/18. 8:17 pm.**
326 Gray commented that 'pilot' should be changed to 'PILOT' for clarification;
327
328 Buonomano pointed about Page 4, Line 68, asking if Chinook Solar had in fact said they gave
329 money to local organizations and Gray responded that they did say that;
330
331 Gray pointed at Page 2, Line 82, to change angel to angle;
332
333 On Page 5, Line 185, Buonomano asked about the discussion on Prime Wetlands. Blais
334 explained that Scott Brook is currently a Prime Wetland but it is not currently designated to be
335 protected as one by the Town because the Town has not yet proposed for it to be voted on at
336 Town Meeting. Blais noted that the mention of Scott Brook as a Prime Wetland should be
337 clarified.
338
339 Blais motioned to accept the minutes as amended, Buonomano seconded, and the Board agreed
340 unanimously.
341
342 **Solar Conditional Use Permit Form. 8:24 pm.**
343 Buonomano pointed out that Utility-Scale should say "greater than one megawatt." Carney
344 asked if the CUP form can clarify on it that it's only needed for Community- and Utility-Scale so
345 that residences looking to put in solar don't end up filling out the wrong application, or be
346 deterred from solar by thinking they also need a CUP.
347
348 The Board asked the LUA to work with Debbie to add a provision to the Construction Permit
349 Application Form that Ground-Mounted Solar Energy Systems need to have all wires buried
350 under the ground.
351
352 The Board had no further discussion on the CUP form.
353
354 **Informational Update on Solar. 8:31 pm.**
355 The Board reviewed the informational packets provided.
356

357 Silverman suggested that the Board could invite Pat Martin to come out and discuss solar energy
358 in the future. Gray noted she was still interested in what happens when there's an excess of
359 energy not being used.

360
361 Carneys discussed that she has heard around Town that Chinook Solar is considering other sites
362 and is concerned that they may be expanding beyond what they proposed. Carney discussed the
363 other locations. Silverman and Blais discussed impacts to natural resources and aesthetics.
364 Tourigny discussed how, from the ski hill in Fitzwilliam, he can see Fullam Hill and wondered if
365 there would be a negative impact to the viewshed.

366
367 Silverman noted that the NH Department of Historical Resources had submitted a notice to the
368 Land Use Department that Chinook Solar had filed a request for project review. Carney
369 responded that one of the oldest buildings in Fitzwilliam exists on Fullam Hill Road. Silverman
370 asked if it was on the registry of Historic Places and Carney responded she didn't think so.

371
372 **Election of Officers.** 8:43 pm.

373 Silverman began with a statement, saying that he would like to discuss the conversation that
374 took place at the last meeting; that the perception that the Planning Board is overbearing and
375 trying to take control of the use of people's property is simply not true and that a careful reading
376 of the Town's ordinances and regulations will reveal them to be a guide to a how project can
377 proceed. Adding that those regulations and ordinances exist to protect both the applicant and
378 the neighboring properties as well. Silverman added that he understands that we are in a time
379 where everyone feels entitled to call themselves oppressed but the Land Use regulations do not
1280 engage in this, and every ordinance enacted by the Town has been a response to a Land Use
381 problem and that every ordinance has been passed by a majority vote according to Town
382 legislature, which is at Town Meeting. Silverman continued that he would gladly discuss any
383 decision the Board has put forward through his 30 plus years of service to the Town, adding that
384 he has always tried to be respectful of anyone who he interacts with, whether applicant or Board
385 member. Silverman stated that we live in a time where quality of life issues are deemed
386 unimportant and it is incumbent on the Town to protect the water and land as best as they can
387 for the common good of the people of Fitzwilliam and for future generations, and to balance the
388 need for growth and business in people's lives. Silverman added that for the edification of the
389 new Selectmen's Representative, the Planning Board is charged under RSA 672 to work in
390 concert with the Town and enhance the public health, safety, and welfare, and to encourage the
391 appropriate and wise use of land use under RSA 672-1, Section 3. Silverman noted that in the
392 future, while input is appreciated, he asked that any comment is done with respect for all Board
393 members and the Town traditions. Silverman then discussed that he would like to add that the
394 assertion that he manages the Board "is really an insult to the people who work hard on this
395 Board," and particularly in the last six months, Silverman noted that he has dealt with various
396 issues and has remained very laid back in terms of designing the Solar Ordinance and taking a
397 lead role. Silverman ended by thanking the Board.

398
399 Tourigny responded that it's easy to find fault, adding that he recognizes "the fact that
400 [Silverman has] been doing this a long time" Tourigny then discussed how he did not interpret
33 01 Kenison's comments made at the previous meeting as "trying to fire a shot at" Silverman or the

402 Board and that what was said seemed to be what the view is of a lot of people in Town. Tourigny
403 added that he certainly gets the fact that Silverman would be offended by the comments made
404 but he felt it wasn't meant to be interpreted in that way.

405

406 Kenison then asked to make a statement on the topic, and discussed that the comments made
407 were not intended to be a personal issue between Kenison and Silverman, but was intended to
408 be what the word was around Town. Kenison added that Silverman had acknowledged at the
409 previous meeting that Silverman was aware of the perception in Town. Silverman responded
410 that the comments made were very similar to sentiments mounted from a campaign three years
411 ago. Kenison replied he was unaware.

412

413 Blais then stated that she felt that the Planning Board members needed to understand that
414 though community opinion is of great importance, the Board is bound by the Land Use Code.
415 Blais added that the Board may listen and care about what the community's opinion or
416 perception of the Board is, however the Board is there to uphold the law and do their best to
417 provide the Town with what they need and what they want to do with their land based on the
418 guidelines the Board has. Blais then added that if the Board is going to focus on negative
419 perceptions, then she wanted to add that she has also had community members say what a
420 wonderful job the Planning Board has been doing. Blais discussed that the Board does care what
421 the Town thinks, but the Planning Board has a job that requires a fair amount of consideration
422 and the focus of meetings should not be on negative comments so that members can beat up on
423 each other. Blais lastly discussed that the Planning Board cannot be sending email discussions.

424

425 Carney then stepped in to comment that she had received a complaint that she then had
426 discussed with a few people, and through that, the communication got misinterpreted. Carney
427 reiterated that the whole focus of the Planning Board is to do what is in the best interest of the
428 Town and that a key factor is team effort. Carney added that members need to agree to disagree
429 because it can help generate good discussion and that the perception of that Planning Board
430 may be negative for some, but it's positive for others Carney added that as elected officials in the
431 Town, they likely need to do a better job of community outreach and education as to what the
432 Boards do and are working on. Carney also noted that there is no place in Town politics for
433 Republicans versus Democrats because the focus should be what is in the best interest of the
434 community. Carney lastly reiterated that there can absolutely be no discussion over email, that
435 it's in violation of RSA 91a, and if there is something a Board member wants to share with the
436 Board, they need to go through the LUA to properly disseminate that information.

437

438 Buonomano then stated that he felt the Board has an opportunity here to change over their two
439 most senior members of the Planning Board, and that changing some of the faces of those in the
440 chair positions would help change the negative perception of the Planning Board.
441 Gray added that she also felt that they had been needing to change the faces of those in
442 chairs/secretary positions for a while. Gray added that she felt it was time for other people on
443 the Board to lead meetings and get deeply involved with stuff.

444

445 Buonomano mentioned that there are a few people on the Board who are really well known and
446 really well respected in the Town across a broad spectrum of people. Buonomano then discussed

447 that he thinks Tourigny would be a good face to have as Chairman of the Planning Board and
448 would like to move to nominate him. Silverman responded that he feels Tourigny is still a bit
449 new. Silverman added that for him, it took a long time to learn the ropes, which included
450 attending workshops that were integral to his growth as a leader and that those experiences
451 aren't quite the same as listening in at Board meetings several times a month. Silverman then
452 discussed that he would like to nominate Haynes as the Chairman.

453
454 Blais then noted to Kenison that she had no clue her son would ever be on the Planning Board
455 and that it was of his own volition that he wanted to be a part of the Board. Blais added that she
456 was surprised when she showed up to a meeting and Haynes was there sitting next to her. Blais
457 lastly discussed that if the Board is looking to improve perceptions and portray themselves as
458 something of interest to younger cohorts, then Haynes would make an impartial chair, a quick
459 mind, and that he is well known and liked in town.

460
461 Kenison responded to Blais that he had no issue with Haynes and he had worked with Haynes
462 on the CIP Committee, noting that he thought Haynes was a "top notch" Board member.

463
464 After discussing if it was appropriate for Blais to second the nomination, Silverman added that
465 there is no legal provision barring family members from being on the same Board, adding that
466 there is also no provision for spouses serving on separate Boards.

467
468 In response to the proposed nomination, Haynes discussed that he's mainly concerned about the
469 time commitment involved for serving as a Chairman. Buonomano discussed that the primary
470 role is to facilitate the meetings, seat alternates, call for additional Planning Board meetings as
471 needed, and to be in control of the meeting. Buonomano also added that the Vice Chairman and
472 Secretary are available to fall back on.

473
474 Silverman added that in the position of Chairman he also supervises the LUA, assists in
475 presenting the Land Use budget, completing evaluations for the LUA, and conducts his own
476 research prior to meetings. Silverman then discussed that the research he does before meetings
477 can be a task that he maintains in transitioning out of the Chairman position, as it is not
478 specifically a Chairman's duty to provide research. Kenison asked if those jobs for the Chairman
479 position are assigned to him by the Board or if he takes them on, asking if, for instance, the
480 evaluation for the LUA should be done by the Board. Silverman responded that most tasks of
481 Chairman are laid out within the RSA and Planning Board Member Handbook, and that that
482 evaluations are to be done by the Chairman, who is the Supervisor to the LUA. Carney added
483 that the Board could have some future input on the Land Use budget, in an effort to delegate out
484 tasks, if needed.

485
486 Gray then seconded Tourigny's nomination and Tourigny then spoke on behalf of his
487 nomination. Tourigny began by addressing his "rogue email" sent on Friday, March 30, 2018 to
488 the Board members including Kenison and Carney. Tourigny addressed the email by saying that
489 he had a conversation with one of the Selectmen about writing the email prior to sending it. The
490 Board members then discussed the procedure, going forward, about how to properly handle the
33 91 dissemination of information among Board members. Tourigny responded that the email

492 situation shows a “golden case in point” of his inexperience, but added that he’s not afraid to
493 give his viewpoint on matters and believes he can be very neutral. Tourigny then added that he
494 certainly has very little experience and that if it still seemed that he would be a reasonable
495 candidate, he would rely heavily on the other Board members. Tourigny then discussed that he
496 does realize he would have to increase his time commitment to the Board and is willing to do so.

497
498 Blais then discussed that Planning Board members are not allowed to discuss Planning Board
499 matters, such as cases, outside of meetings. Tourigny responded that he understands and “gets
500 hit with that a lot,” however has been hearing over the past week and a half around Town that he
501 was going to be the new Chairman, to which he had responded he wouldn’t be.

502
503 Kenison then requested that the emails sent on Friday, March 30, 2018 be attached to end of the
504 Planning Board minutes of this meeting in order to improve transparency of how proceedings in
505 the Town Hall are handled. (A full copy of the email thread is attached at the end of these
506 minutes, and on file for review in the Land Use Department.)

507
508 Young discussed that he has confidence in Tourigny, however, from the perspective of a
509 community member and not of a Board member, he is concerned with having a developer be a
510 Chairman. Tourigny, Blais, and Gray clarified that Tourigny is a contractor, and Tourigny
511 responded that he has never done any development and never built a ‘spec’ house, only customs.

512
513 Blais agreed that they would be putting a fresh face in the Chairman position by nominating
514 Tourigny. Buonomano discussed if they should consider nominating Gray for the Chair position.
515 Gray responded that she was surprised but at the same time does feel like she has experience on
516 the Board and tries to do research before meetings. Silverman responded that for the amount of
517 research she provides for meetings, it may be more well received coming from someone in a
518 non-chair position.

519
520 Blais moved to question, Silverman asked if there was any further discussion and there was not,
521 the Board agreed unanimously to move to question.

522
523 **Chairman:** Buonomano nominated Ross Tourigny as the Chairman, Gray seconded, the Board
524 agreed unanimously

525
526 **Vice Chairman:** Silverman nominated Paul Haynes as Vice Chairman, Blais seconded, and the
527 Board agreed unanimously.

528
529 **Secretary:** Gray nominated Robin Peard Blais as Secretary, Buonomano seconded, and the
530 Board agreed unanimously.

531
532 Silverman made a motion to adjourn, Gray seconded, and the Board adjourned at 9:21 pm.

533
534
535
536

537 **EMAIL TRANSCRIPT FROM THURSDAY, MARCH 29, 2018 TO**
38 **FRIDAY, MARCH 30, 2018**

539
540 1. EMAIL FROM ROSS TOURIGNY TO PLANNING BOARD, CHARLEY KENISON,
541 NANCY CARNEY, AND LAND USE DEPARTMENT

542 - Sent Thursday, March 29, 2018 at 8:53 pm
543

544 I feel prompted to write this in order to clarify from my perspective some of the conversations I
545 have been a part of or questions that have been directed to me as of late.

546 Today I was asked if at the last meeting "did Charley Kenison speak to Terry Silverman in a
547 rude, derogatory, cruel or combative manner?" Charley made mention that some of the talk in
548 town was that the "Silverman's ran the town". Charley stated this in a calm even tone. Terry did
549 respond to Charley in the same manner. He didn't appear to be offended in his mannerism.
550 There was nothing heated or argumentative in this conversation at all in my view. That said I
551 am sure it was a difficult statement to make and receive from both parties.
552

553 Also during the second half of the meeting there was a great deal of discussion about how the
554 Board functions, concerns about the public's view of the board, the selectmans concerns and
555 possible solutions to make for a better Board. It was suggested that Terry step aside from his
556 chair position. The discussion about Terry stepping down ended with no other comments from
557 the board on that matter. I found it interesting that the minutes of the meeting make no mention
558 of Charley's statement to Terry or the suggestion that Terry step down from the chair.
559

560 As of late it has been suggested that I should be a candidate for the Chair. With only one year of
561 experience as a board member and the same with land use issues I can think of no one else on
562 the board with less experience than me. There are, in my view far more knowledgeable board
563 members when it comes to land use regulations. If I was to consider sitting as chair the rest of
564 the Board needs to understand that I would have to lean on the collective knowledge of the
565 entire group in order to be effective.
566

567 In addition to a possible change in the chair I do feel that we can make some adjustments in
568 managing the land use office and some of its current practices, work on our public perception,
569 reevaluate what some consider the boards desire to make more and more rules (this was a
570 comment I got from a homeowner that I visited this week).
571

572 I am sure the rest of the board would have some thoughts on this in addition to other items they
573 feel need to be put on the table for all to consider.
574

575 Please feel free to respond if you'd like.

576 Sincerely yours

577 Ross Tourigny
578

579
3:80 Sent from my iPad

581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626

2. EMAIL FROM MATT BUONOMANO TO PLANNING BOARD, CHARLEY KENISON,
NANCY CARNEY, AND LAND USE DEPARTMENT
-Sent Friday, March 30, 2018 at 9:14 am

We can take guidance on these matters from the State. Attached is the most recent handbook published in December. It clearly outlines Planning Board conduct and the simple role of the Chair. The principal duty of the Chair is to efficiently conduct the meetings according to the Board's adopted Rules of Procedure. The manual outlines very few other duties or authorities of the Chair.

Here is the section on election of officers:

Each local land use board shall elect its chair from the appointed or elected members and may create other offices it deems necessary as described in RSA 673:9. An ex officio member (city council or selectmen's representative) may not serve as chair. Officers serve for one year (RSA 673:9). The chair shall preside over meetings and is typically responsible for conduct and decorum of the meeting. The chair has the responsibility to ensure that all parties receive a full and fair hearing before the board and to ensure rules of procedure and applicable state laws are followed. A board may want to consider electing a vice-chair who shall preside over meetings and assume the duties of the chair in his/her absence. If the vice-chair is also absent, then the secretary shall assume the chair's duties.

At the end of the manual is a section called: "RULES EVERY BOARD MEMBER SHOULD LIVE BY"

We should all review these. Perhaps we should review them annually as a Board.

Item #35 is telling:

627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671

**3. EMAIL FROM MATT BUONOMANO TO PLANNING BOARD, CHARLEY KENISON,
NANCY CARNEY, AND LAND USE DEPARTMENT**

-Sent Friday, March 30, 2018 at 9:16 am

Well, I touched my computer mouse and my last email sent before I was finished. My last point was that Item #35 in the rules every planning board should live by is something for us to consider:

35. Rotate officers. RSA 673:9 limits the role of chairman and other officers to one year but they can run for reelection year after year. When considering a chair (or other officers as outlined in the board's rules) think of how well that person might be in such a role. Don't just automatically vote for a chair just because he or she has been on the board a long time or is a friend of yours - neither of which are necessarily qualifications for a good chairman. The vice-chair (if your rules provide) might be a good training ground for someone who may become chair, especially if they occasionally run the meetings in the chair's absence. Or, heading up a sub-committee might be a good way to assess a member's potential as a future chairman.

672
673
674
675

4. EMAIL FROM CHARLES KENISON TO PLANNING BOARD, NANCY CARNEY, AND
LAND USE DEPARTMENT
-Sent Friday, March 30, 2018 at 10:59 am

676

677 Commenting on this email from Ross.

678 I did in fact say this to Terry. It was in response to Matt's comment that the board would need
679 a new chairman if we want to change how the town perceives us. After all Terry has been
680 Chairman for years and for good or bad he is the one most tax payers associate with the
681 Planning board. A change in the chair would be a signal that we are changing.

682 I too was disappointed that the minutes did not reflect the actual discussion about the chair
683 position.

684 I was pleased with the research that Danica did pertaining to the board's ability to bend the
685 rules and ways to make that happen.

686 As far as Ross' statement that he would have to lean on the collective knowledge of the
687 board, isn't that the exact description of Chairman that we want?

688 **Charley**

689
690
691
692

5. EMAIL FROM ROBIN PEARD BLAIS TO PLANNING BOARD, CHARLEY KENSION,
NANCY CARNEY, AND LAND USE DEPARTMENT
-Sent Friday, March 30, 2018 at 11:22 am

696
697
698

699 I feel it is more appropriate to discuss these matters at the meeting Tuesday.
700 Robin

701
702
703
704
705
706
707
708
709

710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741

6. EMAIL FROM SUZANNE GRAY TO PLANNING BOARD, CHARLEY KENSION, NANCY CARNEY, AND LAND USE DEPARTMENT

-Sent Friday, March 30, 2018 at 11:22 am

Hi All,

I think this discussion should be held until Tuesdays meeting. We can share info via email but must be very careful about adhering to the Open Meeting guidelines.

Suzanne

Suzanne Gray

7. EMAIL FROM NANCY CARNEY TO PLANNING BOARD, CHARLEY KENSION, AND LAND USE DEPARTMENT

-Sent Friday, March 30, 2018 at 12:11 pm

This and further discussion via email needs to stop. It is considered a meeting and discussion between elected officials.

NH Right to know 91-A applies.

Thanks

Nancy

Sent from my Verizon Wireless 4G LTE Droid