

**Town of Fitzwilliam
Planning Board
Meeting Minutes
February 19, 2019**

Member's Present: Suzanne Gray, Chairman; Paul Haynes, Vice Chair; Robin Peard Blais, Secretary; Terry Silverman; Barbara Young; there being only five members of six, Alternate Karen Craig was seated; and Charley Kenison, Selectman's Rep.

Member's Not Present:

Others Present: Matt Singer, Project Manager, Kara Moody, TRC wildlife biologist, and Heath Barefoot, Project Manager, who represent NextEra; Robert and Priscilla Borden, and Dana Pinney, interested parties; Dan Baker, Selectman; and Laurie Hayward, Land Use Administrative Assistant (LUA).

Call to Order: The Chair Called the meeting to order at 7:00 PM.

Chinook Solar: Meeting at their request Draft Memorandum of Understanding (MOU).

The Chair asked if the Board Members would like to open with the NextEra discussion and take up the Minutes later. The Board agreed and the Chair asked who would like to speak for the group from NextEra. Matt Singer stepped forward. Board Members asked a number of questions, especially regarding information that some heard at a meeting of the Board of Selectmen that same morning.

- **Request for reports.** Young asked about reports that have been discussed, but NextEra has not yet provided. Singer stated that there are three reports that could be provided by end of the week, History and Archeology, Mt Monadnock, and the Forest Composition and Clearing Plan.
- **Wild life impact/ Wildlife Corridors.** The Chair asked about Wildlife report. Kara Moody stated that they don't yet have a complete wildlife report. Priscilla Borden spoke about the types of wildlife they see and with clearing at the corner of 119 and FH they are now seeing bears. The Chair expressed her concern regarding wildlife corridors and that the Planning board has been expressing concern since initial meetings on this. Singer noted that any clearing currently happening has nothing to do with NextEra.
- **Use of Pesticides and Herbicides.** Blais asked about pesticides and herbicides. MS – no pesticides, some herbicides for invasive species. Silverman asked for an example. MS gave poison ivy for something they would "spot treat". Blais asked about literature that says they will cut and trim twice a year. MS says they will seed after completion. Blais asked for information on exactly what they plan to use.

- **Wetlands Impact.** The Chair asked what they plan for wetlands, she noted that she can't find information in materials they have given PB. MS says that and some info will be ready in March. Silverman questions about the info on CO2 in the sub-strata. Singer said that they would check with the team working on that.
- **Comparable Sites that NextEra has done in New England.** Singer says that there is a facility that they are working on now that is like the one that they propose for Fitz. Coolidge Solar, Ludlow VT. For this project there are 40 acres cleared out of a total of nearly 100 acres and it is a 19.6 MW project. Singer told members that it is at the Intersection of Barker and Nelson. The installation has a substation with solar panels beyond. They have the fixed tilt panels similar to what is proposed for Fitzwilliam. The project is smaller than the Fitzwilliam proposed project; however, in Maine there is a 77 MW project to be built.
- **Sound levels especially Low-Frequency Noise.** Silverman asked that NextEra work on the assumption that there should be no noise from the substation. Silverman pointed out the issues with low-frequency noise. Silverman recommended an enclosed substation or sound walls around it. Dana Pinney spoke about his concern that NextEra will come in with promises and the impression that they will be a good neighbor and then disappear.
- **Roads: impact and repair and maintenance.** Silverman asked a question about whether the roads used during the building and roads used for maintenance of the installation are the same or different. Singer stated that they are generally the same roads, to the extent possible. Silverman asked how they determine the amount of stress to roads. MS says he is not an expert; but roads are rated and that is part of the determination. Singer added that their roads will be 12-foot roads with shoulders.
- **Useful Life of the Installation and Decommissioning.** Young asked about the logic for doing all the work to have a solar site built and then, some 20-30 years later, planning to just sell the land. Singer pointed out that part of the reason they do the proposal this way is because they are required to start the entire approval process over again at the 20-year mark. Singer says it is common practice in the industry that they contract for 20 years although the remaining life of equipment is generally 30 years.
- **Assurance that the costs of decommissioning will be covered.** Dan Baker asked about the possibility of some surety. Singer offered that they sometimes put a performance bond in place. Dana asked about what happens if they no longer wish to run it will they be able to let it just sit with no maintenance.
- **Why Fitzwilliam?** Priscilla Borden asked why NextEra chose Fitzwilliam. Singer explained that Fitzwilliam just met their criteria, including that the site not have steep slopes and that the property is available through a lease agreement. Borden asked why they were clearing undeveloped land already. Singer pointed out that for this site, there has been clearing going on for some time and the site should not be characterized as undeveloped forest.

- **Conservation of lands that are not specifically used for panels.** Silverman asked if there is a possibility of conserving the wetlands on the property that will not be touched. Singer indicated that NextEra might be willing to entertain that proposal. Singer stated that is a reason to do a MOU. Singer explained that there are seven parcels and NextEra will own six of the seven.
- **Limit property use to solar only.** Silverman proposed that there be an agreement that the property be used for solar only. His concern is that at some point in the future this not be a seed project for further development. Singer pointed out they are using all the suitable land for panels.
- **Use of Fitzwilliam Wetlands Scientist to prepare analysis of impact and report.** Silverman asked that the town be able to go to their Wetlands Scientist, Rick Van de Poll, and do that at NextEra's expense. Silverman clarified that there are Wetlands and Wild Life issues that Van de Poll could report on and that the Planning Board needs to have. Singer spoke about having the town provide something from Van de Pol about scope and costs. Silverman pointed out that Van de Poll has already done research for the town and that should make costs a bit lower than they might be otherwise.
- **Tax Impact to Fitzwilliam.** Young asked for an explanation about the tax impact. Singer stated that he has spoken with a specialist and it is a follow up item to get a memo to the board of Selectmen regarding the issue.
- **Fitzwilliam Master Plan.** The Chair spoke about the wildlife protection, scenic views, protecting rural character that are all the highest priorities of the people of the town and were noted as such in the town Master Plan.
- **NextEra drafted Memorandum of Understanding (MOU).** The Chair that there was a discussion in the morning Board of Selectmen meeting about setting an MOU in place instead of a Site Plan Review. She pointed out that the Planning Board does not want to set a precedent that undermines future ability to insist that an applicant go through Site Plan Review. The Chair pointed out that the New Hampshire Site Evaluation Committee (SEC) review is as much work and substantially similar as the Fitzwilliam requirements so preparing for it should not be onerous. Singer said that there are areas of overlap and they can provide a side-by-side comparison if that is helpful.
- **Site Plan Review vs. SEC review.** Blais spoke about the importance of the town's Zoning Ordinance and the Board's sense that the best way to get at the issues and answers is through a Site Plan Review. Singer stated that it is not the effort that is in question; it is the jurisdictional issue and NextEra feels that the SEC has jurisdiction. Singer said that he understands the importance of compatibility. He feels the MOU is the route that leads to that compatibility.

The Chair stated that she does not feel an MOU will take the place of a Site Plan Review. Craig indicated that she feels that the point about the SEC jurisdiction is a credible one. The Chair reiterated that there is a place in the process for review by the town with the goal of having the town and the applicant, whether to the SEC or not to get the "town's blessing" and this is where a Site Plan Review is most useful. The Chair pointed out that at this point the Planning Board does not know

whether the proposed installation complies with town ordinances – so how can the town agree to it without adequate information? For example, the Planning Board does not currently know the likely impact on wetlands. A Site Plan Review would address the likely impact on wetlands. Blais pointed out that the substation located in Fitzwilliam went through Site Plan Review. Singer stated that the substation did not meet the size [megawatts] threshold.

The Chair spoke about an earlier meeting regarding the NextEra project at which Pam Monroe of the SEC was present and told Singer that Monroe had provided the Board with an outline of the SEC review process. The Chair read from some of what Monroe provided including that “preempts local authority and ordinances; but required to give due consideration to the views of municipal and regional planning commissions and municipal governing bodies”. Singer offered that he feels an MOU does that. The Chair reiterated her concern about precedent and how that is a prime motivation for the Planning Board to continue to press for Site Plan Review. Singer said that he will check with their attorney to see if there is any way they can look at doing a Site Plan Review.

- **Input from residents.** Priscilla Borden spoke saying that, as a resident of the town, she feels the Board should be concerned with precedent and should make every effort to handle this through Site Plan Review rather than MOU. Dana Pinney also spoke regarding his previous experiences with outside organizations coming into town with promises and then disappearing as quickly as they came and leaving the impression they have little regard for the town. Towards the end of the session, Singer addressed Pinney, stating that he does not want to be that company that comes into town and leaves behind a bad impression.

Blais asked whether there had been a formal vote to request Site Plan Review. The Chair stated there was a vote to request legal guidance. Legal guidance has now recommended that NextEra come through Site Plan Review. Singer asked if the NextEra open a line of communication between the NextEra land use attorney and the Fitzwilliam land use attorney. The Chair pointed out that we are closely watching our legal costs and would not agree to that. She stated that she is not comfortable with agreeing to that.

Young pointed out that there are still a number of items that the Board has requested and that have not yet been received from NextEra. Singer asked for the minutes from the January 15, 2019 meeting. It was pointed out that the minutes were in draft form at this point. The LUA said she would send the final approved version to Singer. The Chair pointed out that the tax implications are out of the Planning Board purview and will be handled by the Board of Selectmen. Singer stated that NextEra does have that as a follow up item to get a memo out to the Selectmen.

Blais moved that the Planning Board request that NextEra come before the Board for Site Plan Review of their proposed solar project on Fullam Hill Road [Tax Map ;Lot]; Silverman seconded the motion. Craig and Kenison opposed the motion. The motion is voted. The Chair stated that the Planning Board will provide a formal letter requesting that NextEra come through the Planning Board with a Site Plan Review and state some of the concerns but not all. The Chair pointed out that the studies promised still have not been

seen including studies on wetlands and wildlife that NextEra has been talking about for years but which the Board has never received. The Chair reiterated the Planning Boards desire to hire the Board's own expert(s).

There was a discussion about how many copies and hard copies of reports that NextEra will provide to Boards. It was agreed that reports be provided as follows:

Select Board 2 hard copies and 3 flash drives

Planning Board 3 hard copies and 6 flash drives

NextEra representatives left at 8:35

The Board went into Executive session: The session was called in order to review information from legal counsel. The Planning Board came out of executive session at 8:51 PM. **Planning Board Members voted unanimously to seal the minutes.**

Minutes: Meeting of February 5, 2019. Board Members discussed changes to the minutes. Blais moved and Haynes seconded to approve the minutes as amended and it was voted unanimously.

Old Business: There was a brief discussion about a request from the LUA that they consider requiring applications to come in by the 10th of the month if they are to be heard by the first meeting of the next month. Members wanted to be sure that all applications received after and 21 days or more of the second meeting of the month be scheduled for that meeting.

The LUA reported about the Conservation Commission Meeting February 11, 2019. She explained that the Conservation Commission met with Paul Grasewicz and reviewed the Spicer proposed addition pans. At the end of the discussions, the Members decided that there were five items that reflected their concerns about the proposal. The last item was that the Applicant should go to the Planning Board for Site Plan Review.

New Business: Blais spoke about some of the legislative issues that the Planning Board has been watching carefully. Blais and Silverman attended a legislative session that dealt with HB 326 Prime Wetlands, including the Prime Wetlands designation rules. Blais said that both she and Silverman spoke. Rick Van de Poll, the Wetlands Scientist who did the work on wetlands in Fitzwilliam was there and spoke as well. She noted that overwhelmingly individuals at the meeting worked for the forestry industry in some capacity.

Correspondence/Announcements: The Chair read from a communication from the Southwest Regional Planning Commission regarding a survey that they are taking. They request support from local Planning Boards for a survey that they are taking and asking local towns to support. The chair passed out information from Southwest Regional Planning. There was a brief discussion about whether there was a reason to have a March 5th meeting. The LUA noted that there are no applications on file at the Land Use Office at this point. Because of the noticing requirement which calls for at least 21 days from receipt of an application before the Public Hearing can be held, there will be no hearings before the March 19, 2019 meeting. It was agreed that

Approved as amended March 5, 2019

the Planning Board could hold a work session on the draft language for a new Shoreland Protection Ordinance on March 5th.

There being no additional business to conduct, the meeting was adjourned at 9:05 PM. The next meeting is scheduled to be a work session on March 5, 2019.

Respectfully Submitted,

Laurie Hayward
Land Use Administrative Assistant