

**Town of Fitzwilliam
Planning Board
Meeting Minutes
July 8, 2019**

Planning Board Member's Present: Suzanne Gray, Chairman; Terry Silverman, Vice Chairman; Robin Peard Blais, Secretary; Paul Haynes, Karen Craig, and Barbara Young, Members; and Charley Kenison, Selectman's Rep.

Board of Selectmen Member's Present: Dan Baker, Chairman; Robyn Bates and Charley Kenison, Members.

Members Absent:

Others Present: Kevin Woolley, Paul Kotila, Beth Vanney, Corinne Marcou, Ron Leel, Gary Girard, Pat Girard, Pat Shuster, Al Brogdon, James Dalton, Jeff Poston, Jeff Craig, Rebecca Lawrence, Karen Viens, Christine Keefe, Julie Cordatos, Gretchen Wittenborg, Gloria Barefoot. Bill Barefoot, Brenda Fournier, Dan Fournier, Marion Wheeler, Lynne Brown, Helen Mattson, Tanton Mattson, Alex Carrier, Robert Borden, Priscilla Borden, Jeanne Sable, Jim Rogers, Dana Pinney, Bonnie Wicklund, Cathy Davis, Bill Davis, Kevin Rule, James Hennessey, Pat Martin of Rindge, Ned Greeley, Peg Prestidge and Stephanie Scherr.

CTO: 7:00 PM

Chinook Solar Project Information Meeting: Gray opened the meeting with a slide presentation covering the Overview of the project; the New Hampshire process; the Role of the Town; and the Next Steps.

•Overview of the project:

- Location: Fullam Hill Road to Rte. 12 S (South of Route 119)
- Size: 30 MW Utility Scale Solar Electric Generating Facility
- owned by NextEra the world's largest utility company with generating facilities located in 32 states, and based in Juno Beach, FL
- Proposed land size and impact: Over 400 acres to be bought or leased; 157 acres of disturbed land where Disturbed Land = Access Roads, Construction Area, and Solar Panel Arrays
- Acres in panels: 111 Acres of Solar Panels
- Studies by NextEra: numerous studies have been completed by NextEra; available on Fitzwilliam Town website. www.fitzwilliam-nh.gov
- Construction planned for fall/winter 2020/2021; operational fall 2021.
- The approval process is administered by the New Hampshire Site Evaluation Committee.

Gray pointed out on maps the location of the project and the likely location of panels. She pointed out the gradient lines and that the topography slopes downward towards Scott Brook which runs from Scott Pond, one of the high value wetlands that the town designates as a "Prime Wetland". Gray noted that there are significant wetlands running the length of Scott Brook. She explained that Wetlands are a critical part of our natural environment. They reduce the impacts of floods, absorb pollutants and improve water quality. They provide habitat for animals and plants and many contain a wide diversity of life, supporting plants and animals that are found nowhere else. The Town of Fitzwilliam voted Scott Pond a Prime Wetland in 2016 and Scott Brook runs along west side of project area.

Gray went on to explain that NextEra has already produced a number of reports, all using their own specialists. Reports currently available at www.fitzwilliam-nh.gov and completed by NextEra Experts include:

- Sound Survey
- Long Eared Bat Survey
- Wetland and Waterbody Delineation Report
- Forest Study
- Archeology Report
- View Sheds
- Meeting Minutes from Planning Board January 15, 2019 and
- Board of Selectmen February 19, 2019.

There are still outstanding reports they have not completed; Visual Impact; Greenhouse Gas Analysis, and perhaps others.

Also, Fitzwilliam has not hired experts to review these studies nor to do any independent studies, but has the right to do so at the expense of NextEra.

Gray noted that the Planning board would be reviewing reports and determining what experts the Planning Board wants to hire. Corinne Marcou asked if the town hires the experts. Gray explained that the town hires the experts at the applicant's (NextEra's) expense. Bill Davis asked if there was a reason why NextEra bypassed the town process for Site Plan Review. Gray explained that they did because they are allowed to under state statutes. Jeff Craig pointed out that there is a Q&A planned for the end of the presentation and suggested that Gray be allowed to present.

•**Select Board on their work on the project:** Robyn Bates, Board of Selectmen, spoke for the Board of Selectmen and provided an update on some of the issues that they are currently working on, explaining.

- That a **Memorandum of Understanding (MOU)** is a formal document describing the broad outlines of an agreement that two or more parties have reached through negotiations. It is not a legally binding document but signals the intention of all parties to move forward with a contract.
When documented, an MOU ensures that expectations are clearly stated between the parties at an early stage.
- That a **Payment in Lieu of Taxes agreement** (usually abbreviated as **PILOT**, or sometimes as **PILT**) is a payment made to compensate a government (in this case Fitzwilliam) for some or all of the property tax revenue lost due to tax exempt ownership or use of real property. PILOTS were created to encourage development in areas where it otherwise might not occur. The statute provides that a developer and municipality can agree for the developer to pay a percentage of a development's revenues, for up to twenty (20) years rather than pay traditional taxes on the fixtures constructed on the site.
- **Status of the MOU and PILOT.** These documents are not due to be completed when the application is filed by NextEra in August. The Town of Fitzwilliam has the time and needs the time to make sure we have addressed all matters of concern and have time to get what the town needs.
- **Legal Counsel.** The Board of Selectmen negotiated with NextEra to help subsidize our independent legal counsel. The Board of Selectmen spoke to Clean Energy NH and they referenced several firms that had experience in clean energy to help guide us through the process. The Board Interviewed:

- 1) Sheehan Phinney,
- 2) Primmer Piper Eggleston & Cramer PC, and
- 3) BCM Environmental & Land Law.

At this time the Board is continuing to work with BCM to navigate the pros and cons to the community and to guide us in the directions best suited to the community.

- **The Goal is to address all Municipal Concerns.** The Board of Selectmen will continue to work collaboratively with the Planning Board and Conversation Commission, recognizing that there is no Municipal Site Plan Review, to get the best outcome. Bates explained that there is no town Site Plan Review because this project will go through the New Hampshire Site Evaluation Committee (SEC) a state organization.

Bates asked that those in attendance at this meeting encourage people to attend the July 18th meeting to learn, ask questions and share comments.

•**New Hampshire SEC process:** Barbara Young, Planning Board Member, discussed the SEC process. She explained that Pam Monroe is the Administrator. Young went through the Evaluation Committee timeframe as follows:

- Pre-Application Public Information Session – held in each county where the proposed facility will be located. The session to be held at least 30 days prior to filing the application with the SEC.
- SEC Administrator forwards to NH Agencies with Jurisdiction expeditiously.
- Designation of a Subcommittee expeditiously.
Preliminary Review by Subcommittee expeditiously after the Application is received.
- Subcommittee determines if Application is Complete within 60 days of the Filing of the Application
- One Public Information Session (in each county), within 45 Days after Acceptance
- One Joint Public Hearing (in each county where the proposed facility will be located) with other agencies (Subcommittee attends), within 90 days of acceptance.
- Agency preliminary reports with draft within 150 days of acceptance.

Young explained that the July 18th Information Session that NextEra will hold is step one for the SEC process. Young described the committee and stated that there may be subcommittees. The pre-filing information session on the 18th does not involve the SEC.

Young mentioned concerns about what happens years hence when it is time to decommission. Young pointed out that the SEC and this process have only been in existence a few years and both the SEC and this town's boards are all learning. In the end, it is supposed to be in the public interest; but how that is determined may not necessary mean it is in Fitzwilliam's public interest.

Public Participation and the Role of Municipalities in the SEC Process: Young continued speaking about the SEC and how the public can participate:

- Pre-Filing Public Information Session-No SEC involvement- people should attend.
- Post-Filing Public Information Session-Administrator and Applicant;
- Post-Filing Public Hearing-Subcommittee;
- Written Public Comments are accepted throughout the proceedings and are reviewed by the Subcommittee and posted on the website;
- Additional Public Statement Hearings may be held during the adjudicative phase; and
- Petitions to intervene in the adjudicative process.

Regarding the role of Public Counsel:

- The Assistant Attorney General Appointed by the Attorney General.
- Public Counsel represents the “public” in seeking to protect quality of the environment and in seeking to assure an adequate supply of energy.
- All rights, responsibilities and privileges of an attorney representing a party in a formal action.
- Can engage consultants and legal counsel and the applicant pays the cost.

Regarding some of the criteria used and findings required:

The site and facility will not have an unreasonable adverse effect on:

- Aesthetics;
- Historic Sites;
- Air and Water Quality;
- The Natural Environment; and
- Public Health and Safety.

In order to issue a certificate, the committee must find that:

- The applicant has adequate financial, technical, and managerial capability.
- The site and facility will not unduly interfere the orderly development of the region
- Due consideration given to the views of municipal and regional planning commissions and municipal governing bodies
- Issuance of a certificate will serve the public interest.
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 - ◆ Issuance of a certificate will serve the public interest.

Young made it clear that the SEC Administrator really manages the process and is the best contact. The following contact information was given:

SEC CONTACT AND WEBSITE INFORMATION

Pamela Monroe, Administrator
Pamela.Monroe@sec.nh.gov
(603) 271-2435
www.nhsec.nh.gov

•Role of the town. Regarding municipalities:

- The SEC is required to give due consideration to the views of municipal and regional planning commissions and municipal governing bodies, and

- Consider the extent to which the siting, construction, and operation of the proposed facility will affect land use, employment, and the economy of the region.

Young suggested that people who wish to give written input, do so; but do it through both the Planning Board and the Board of Selectmen. Young explained that the Assistant Attorney General appointed to work on this does not work for the town. Stephanie Scherr spoke, explaining that the ISO New England [the electric grid] comes into this and it is about the costs and benefit to all of New England that the SEC is concerned when considering “public Good”.

Q and A; Next Steps: Gray went through the “Next Steps”. It was explained that a retired judge will facilitate. Gray encouraged people to get involved and go to meetings and communicate their thoughts to the Planning Board or the Board of Selectmen or write to the SEC Administrator.

Gray opened the meeting to public input. Bill Davis expressed his concern that NextEra will come in here with a small army of many experts and overwhelm. He expressed concern that there is a question of whether there will be a balance in pros and cons for Fitzwilliam. He expects that NextEra will over power the town. He asked will the Town’s representatives in Concord be there to help Fitzwilliam in this process. He expressed that he finds it absurd that neither the town nor the state get the benefit.

Wittenborg asked Gray if she knew of anyplace where a town has been able to prevent solar installation. Gray said there was a successful effort in Concord, NH; but that was not a 30 MW installation and therefore was not done through SEC. Blais noted that the SEC was involved with the Antrim Wind project and that was turned down. Gray noted that Northern Pass was also turned down.

Gray asked if the Board of Selectmen wanted to speak to the PILOT agreement. Baker spoke, explaining that they are working on this and are working with counsel to make sure that the town gets as much as possible from any agreement.

Pat Martin, who lives in Rindge, spoke about the SEC stating that their job is Site Evaluation and once that is done done, the future oversight is handled through the PUC. Martin added that even though this is not the usual public utility oversight as, for example, there is no utility rate setting; still the PUC will take on the oversight. Pat Schuster asked who negotiates. Baker explained that the Board of Selectmen is negotiating with help from legal counsel and the Board Members hope to have a representative from Planning Board and Conservation Commission involved in the negotiations.

Bates spoke about the different ways that there might be benefits. Beth Vanney asked about the Common Interest Agreement. Bates stated that legal counsel has requested that agreement not be published because it has not really been negotiated at this point. Rebecca Lawrence asked that Vanney give her background. Vanney did that explaining that she was sometimes involved in negotiating proprietary intellectual property agreements as well as other agreements. Baker explained what they are working on is process not contract wording and that this is not the solar contract. Rather, it is a conceptual agreement that: 1. allows negotiation without the full facts which makes negotiation easier and 2. allows the Board of Selectmen to include other Boards involved to have a place in the negotiating process. Vanney stated that she finds the language onerous and she worries that it will present a problem in the future. Bates asked Vanney to document her concerns. Vanney said that she has passed her input on to Kotila, the Conservation Commission Chair.

Priscilla Borden spoke about her concern that it does not make sense that they need a secret contract in order

to move forward on another contract. Silverman spoke about his sense that there should be more people not fewer involved in the process. Borden stated that she feels NextEra will do whatever they can to get this project and the town should remember that. Gray reminded that NextEra has already sold the energy from this project and they wish to move quickly. Bates pointed out that are penalties if they do not meet the timing they have committed to meet.

Peg Prestidge asked if the Boards have looked up some really big projects and tried to see the difference between the ways they treat towns large and small. Gray noted that there are projects in other areas; but they are not much like Fitzwilliam. Jeff Craig asked if the Ludlow project is NextEra. The answer is "yes". Ludlow is in Vermont and in Vermont all solar projects go through the state. It was mentioned that there is also a project proposed for Hinsdale which may end up larger than Fitzwilliam at as much as 50 MW. Mr. Craig asked if anyone has asked Ludlow how they feel about their interactions with NextEra: are they entirely pleased or have they been taken advantage of? Gray explained that the Planning Board has done some research along those lines. She spoke with the Fire Chief in Franklin and he did give some negative input regarding issues that arose as they worked with NextEra on a small Franklin project. She has a list of things to look for on the construction end. Gray stated that the Planning Board is actively seeking that kind of information and feedback.

Al Brogdon asked if there was a chance that this proposed installation would go through the SEC process because it is 30 MW or more and, in the end turn out not to meet the 30 MW threshold. Gray replied that the Planning Board had asked NextEra that question many times and not yet had a completely satisfactory answer. Gray suggested that Brogdon put that question to NextEra at the July 18th session. Brogdon spoke about his concern that the meeting on July 18th is scheduled for the day his band is playing on the green. He would like it to be able to go to the meeting and have the people who come to listen to the band also be able to go to the meeting. Brogdon asked if there was any chance of changing the NextEra Information Session. Gray said that he could ask the Select Board Office; but it seems that date is settled. It was noted that, if it rains, the band would move into town hall for the concert and it might get very crowded and very noisy. Brogdon commented that he has been listening carefully and what he hears is suspicion and it is a sad state of current affairs. Brogdon pointed out that it is important to be aware of the needs out into the future and not react with "not-in-my-back-yard" but take a longer and larger view and consider whether this is of great benefit to society. Brogdon did explain that he feels that solar is not necessarily bad and we should see if we can work this out. Silverman spoke, explaining that the purpose of the work of the Planning Board is not to block the proposed solar installation. The Board is trying to come to the best position which mitigates negative effects and expands benefits to the town and there is a concern that they not be run over by a large international corporation. Gray pointed out that the Planning Board would do this with any applicant so it is not even directed just at NextEra.

Green Energy: Al Brogdon mentioned that he has read about countries that are making significant improvement in moving towards a zero fossil fuels. Mrs. Borden expressed that solar, as green energy, is great when it benefits the people in the location where it is installed; however, that is not the case in this proposal. Energy should be produced where it is used. This energy goes elsewhere. Borden described other innovative ways that solar panels are being sited – on mall and civic building rooftops, for example. She pointed out the problem, from her point of view, is that so many people of Fitzwilliam have pointedly chosen the life in a small town where they live close to the woodlands, the wild life, and want to go hunting. She feels that this is another example of how people who choose to live a more rural life are dictated to by people in cities. It was pointed out that cutting down trees is not "green". Cutting down trees creates other problems and can have negative affects on streams and wetlands and, in a larger sense on the water cycle. We are talking "planting solar panels while third world countries are trying to replant forests". It was pointed out that taking land to use

for solar panels will take that land away and it will not come back as it was before. Young stated that she feels these questions are ones about the balance of cost to benefit and that is part of what the SEC is charged with determining.

There was a question regarding the Mt. Monadnock views. Blais answered that she has been in contact with an individual who works with the park service at Mt. Monadnock and they are aware of the proposed solar installation and are not concerned about view shed questions.

Young asked about the possibility of getting the NextEra July 18th presentation in advance. Gray asked that the LUA request that.

Dana Pinney spoke about the problems with the substation noise. He explained that Eversource did do some studies, literally right off his deck. He pointed out the importance of hiring independent specialists. Pinney did note that eventually Eversource resolved the sound issue. Kenison spoke about the reason NextEra is buying so much land, explaining that is because a percentage of the land must not have panels. Kenison and Silverman spoke about the possibility of having the open land put into conservation. Borden noted that the concern is about talking away habitat and losing wildlife corridors. She explained that recent clearing near the proposed project has coincided with increased activity by bears on her property.

Davis expressed concern that the energy from this is already sold asking if it is disingenuous. Silverman explained that NextEra has to prove that they have customers. Marcou pointed out that she understands the importance of green energy. But she doesn't understand where the benefit is for the people of Fitzwilliam – for her. She said she is frustrated about the idea of a PILOT when she would rather see the property taxes reduced.

Gary Girard, said he has read about Hinsdale plan to try to do it as a property tax by formula over time. Bates spoke about a balance and how it is the collective job to get the best balance possible.

There was a question why Fitzwilliam was chosen. The LUA explained that it is her understanding that NextEra has approached multiple towns in this region and goes through a significant analysis before putting together a proposal – so it wasn't that they only came to Fitzwilliam.

Gray brought the meeting to a close.

There being no additional business to conduct, Blais moved; Gray seconded and it was unanimously voted to adjourn at 8:51 PM. The next meeting will be held on Tuesday, July 16, 2019.

Respectfully Submitted,

Laurie Hayward
Land Use Administrative Assistant