

Town of New Fairfield
Board of Selectmen
4 Brush Hill Road
New Fairfield, CT 06812

MINUTES

Board of Selectmen Special Meeting
Friday, October 17, 2008
9:30 AM
Town Hall Conference Room

Members present:

John Hodge, First Selectman
Tom Corbett, Selectman
Ron Oliveri, Selectman

Other Town Officials Present:

Call To Order First Selectman John Hodge called the meeting to order at 9:38am

Discuss and vote to authorize the first selectman to sign a letter from First Light to FERC Re: Shoreline Management Plan

First Selectman John Hodge spoke of a proposed letter drafted by First Light noting that the towns have had discussions regarding zoning and building permit issues around Candlewood Lake and because of the positive discussion on those two subjects, First Light would like to ask FERC (Federal Energy Regulatory Commission) to postpone a decision on the entire Shoreline Management Plan. (Such letter to be attached to the minutes of this meeting). A copy of a letter sent to Mr. Robert Gates (Northeast Generation Services) from First Selectman Hodge on September 12, 2008 was also presented to the Board of Selectman. (A copy of this letter will also be attached to the minutes of this meeting.)

Mr. Hodge spoke of issues regarding this letter and noted that the zoning and building permits were separate from the Shoreline Management Plan issues and that all items should be put out on the table for discussion regarding the Shoreline Management Plan. Mr. Hodge noted that New Fairfield has legal intervener status regarding the Shoreline Management Plan. Mr. Hodge also spoke of the deeded rights of property owners.

Mr. Hodge further spoke about the addition of Squantz Pond as part of the Shoreline Management Plan at the last minute. There was a discussion noting that the issues regarding Squantz Pond are much separate from Candlewood Lake.

John Hodge made a motion to authorize the first selectman to sign a letter from First Light Power Resources to the Federal Energy Regulatory Commission dated October 17, 2008 as presented. Ron Oliveri seconded the motion.

Vote: 1-2-0 (Motion denied)
(John Hodge in favor, Ron Oliveri and Tom Corbett opposed)

There was a discussion regarding all the issues of the Shoreline Management Plan. Selectman Ron Oliveri and Selectman Tom Corbett noted that all issues outstanding issues should be on the table before the letter from First Light Power to FERC is signed.

There was a discussion regarding adding Squantz Pond to the Shoreline Management Plan. Selectman Ron Oliveri noted that he represented the town in the early development of the SMP and Squantz Pond was never mentioned. It was noted that Sherman and Brookfield are in support of the Shoreline Management Plan and don't have the same issues as New Fairfield. Selectman Oliveri noted that Sherman and Brookfield have a lot fewer property owners around the lake and that New Fairfield owns the most property around the lake. It was also noted that Danbury has legal intervener status and that the state has requested intervener status.

John Hodge made a motion to authorize the first selectman to sign a letter from First Light Power Resources to the Federal Energy Regulatory Commission dated October 17, 2008 as amended if First Light agrees to add the following sentence "As of our last meeting, First Light and management representatives have agreed to put all outstanding Shoreline Management issues on the table for discussion" prior to paragraph six. Ron Oliveri seconded the motion.

Vote: 3-0-0 (Motion approved)

Adjournment

Ron Oliveri made a motion to adjourn the meeting at 10:00 am. Tom Corbett seconded the motion.

Vote: 3-0-0 (Motion approved)



October 17, 2008

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20426

Re: Housatonic River Project No. 2576-100 Shoreline Management Plan

Dear Ms. Bose:

We are writing to inform the Federal Energy Regulatory Commission (FERC) regarding positive developments related to the Shoreline Management Plan (SMP) proceeding for the Housatonic River Project (Project). As explained further below, based on this recent progress, we request that the FERC refrain from approving the SMP prior to January 31, 2009 to provide time for the resolution of critical issues by the Housatonic Project licensee, FirstLight Hydro Generating Company (FirstLight) and the municipalities with lands within the Project boundary.

As the Commission is well aware, the process for the consideration and development of the Housatonic SMP has been lengthy, difficult and, at times, contentious. After an extensive stakeholder process, FirstLight filed the SMP for consideration by the Commission in July 2006. The Commission staff issued an order approving the SMP with modifications in July 2007. However, the Commission rescinded the SMP order on October 29, 2007, following "consideration of the record in this proceeding, including the representations made in the requests for rehearing..."

Subsequently, the regulatory status of lands within the Housatonic Project boundary became further complicated on February 19, 2008, when the Connecticut Supreme Court issued its decision in *Thomas Hackett v. JLG Properties LLC*, holding that local zoning and building permits are preempted by the Federal Power Act (FPA) within the Project boundary.

In the months following the Connecticut Supreme Court's decision the municipalities considered how to respond. Over time it became evident that FirstLight was willing, as a matter of comity, to require that applicants for use and occupancy within the Project boundary obtain local land use and/or building permit approvals, to the extent permitted under its license and the FPA. This approach was of interest to the municipalities and it was agreed that FirstLight should develop the outline of an agreement regarding the application of local land use regulations and/or building codes within the Project boundary.

On July 22, 2008, FirstLight senior management and representatives of the following municipalities, New Milford, Brookfield, Danbury, New Fairfield, Newtown, and Sherman, met to discuss a proposal from FirstLight on the local land use issue. A very positive discussion

occurred and it was agreed that a subcommittee would be formed to convert the concepts discussed by FirstLight and the municipalities into a legally binding agreement. On August 27, 2008, FirstLight met again with representatives of some of the municipalities and had a very positive discussion that focused on questions raised by the municipalities at the July meeting.

The issuance of an SMP order by FERC during the negotiations could have unintended adverse consequences. Therefore, we respectfully request that the Commission refrain from taking final action on the SMP prior to January 31, 2009 in order to give us the time necessary to draft and execute an agreement. In order to keep the Commission informed on our progress, FirstLight would file with FERC on behalf of the group monthly negotiation status reports.

Our mutual goal is to execute a binding agreement for submission to FERC for review no later than January 31, 2009. Of course, FERC has jurisdiction over its licensee, FirstLight, but not the municipalities. Therefore, the agreement as a whole would be a contract not subject to FERC's jurisdiction. However, as explained above, certain aspects of the agreement regarding the use of lands and waters within the Project may require FERC approval before they can be implemented by FirstLight.

We are pleased that, for the first time in a multi-year process, FirstLight and the municipalities have agreed conceptually on how to approach key issues. We are committed to building on this positive momentum. We believe that, if at all possible, the resolution of these issues between the stakeholders in this proceeding is most likely to produce a durable result that the Commission will find is in the public interest.

Thank you very much for consideration of this request.

Sincerely

Curtis A. Morgan
President and CEO of FirstLight
Hydro Generating Company

Robert Silvaggi
First Selectman of Brookfield

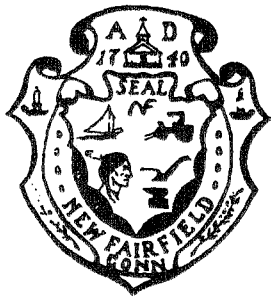
Pat Murphy
Mayor of New Milford

John Hodge
First Selectman of New Fairfield

Andrea O'Connor
First Selectman of Sherman

Mark D. Boughton
Mayor of Danbury

cc: Mark Robinson, Director, Office of Energy Projects



Town Of New Fairfield

TOWN HALL
4 BRUSH HILL ROAD
NEW FAIRFIELD, CT 06812

(203) 312-5600

Selectmen's Office

September 12, 2008

Northeast Generation Services
Bob Gates, Station Manager
143 West St. Extension Suite E
New Milford, Ct. 06776

Re: Housatonic River Project No. 2576-100 Shoreline Management Plan

Dear Mr. Gates,

Thank you for forwarding a copy of the draft letter to FERC from FirstLight and participating municipalities. As you know, due to short notice, the Town of New Fairfield was not able to attend the August 27, 2008 meeting wherein attending municipalities apparently agreed to ask that the approval of the Shoreline Management Plan be delayed to provide time for the parties to resolve critical issues. It is my understanding that the "critical issues" are related to the Connecticut Supreme Court decision in the Thomas Hackett v. JLG Properties case. The decision held that local zoning and building permits are preempted by the Federal Power Act within the project boundary. Any discussions surrounding those issues would translate to a relatively small component of the overall Shoreline Management Plan. While I think it is wonderful that FirstLight and the municipalities are discussing these issues, I do not agree with the statement that, FirstLight and the municipalities have agreed conceptually on how to approach key issues related to the SMP.

At the end of the day, zoning and building permitting issues are extremely important but in my opinion they are separate and ancillary to the SMP. Key issues related to the Shoreline Management plan have not been addressed by FirstLight and I would like to suggest that, if we are all trying to build "positive momentum" and seek a resolution of all issues between the stakeholders, we should put all of the issues on the table, not just issues which are beneficial to FirstLight (i.e.: having Towns administer Zoning and Building regulations below the 440 line).

As you know, the town of New Fairfield has consistently held that, while we are in favor of the SMP, we are in complete disagreement with regards to the charging of

administrative fees to deeded property owners and the inclusion of Squantz Pond in the SMP. I am concerned that the letter being sent to FERC blurs the line between zoning/building regulation administration and all of the other legitimate SMP issues by stating that, "we are pleased that, for the first time in a multi-year process, FirstLight and the municipalities have agreed conceptually on how to approach key issues related to the SMP". Clearly, not all of the municipalities were at the meeting where this was discussed and I believe that it is misleading to say that this meeting was directly related to the SMP.

Bob, I believe that working together is essential to a positive outcome on all SMP matters so that we don't have to resort to years of litigation. I do not believe that, after many years of discussions, any future delay of an approved SMP is warranted. If this letter represents a change in FirstLight's position on all key issues, please contact me immediately, if not, the Town of New Fairfield objects to any further delays in finalizing the SMP.

Sincerely yours,

John Hodge,
First Selectman

Cc:James Ginnetti
John Keating, Esq.
Katherine McGinnes, Esq.
Selectman OConner, Sherman
Mayor Boughton, Danbury
Selectman Silvaggi, Brookfield
Selectman Murphy, New Milford
Kimberly D. Bose, FERC