

WINSLOW PLANNING BOARD

Minutes of the Meeting

February 28, 2008

Special Meeting on FPLE Application to Breach Ft. Halifax Dam

Chairman, Michael Parker called the meeting to order at 6:00 p.m. There were four (4) members present:

Michael Parker	Elery Keene	Milton Poulliot
Dominic Carter		

Mr. Fletcher has recused himself from the proceedings.

Voting members were Milton Poulliot, Elery Keene, Michael Parker, Dominic Carter and Richard Browning Sr. will be a voting member if or when he arrives. Mr. Browning arrived at 6:10 p.m. and became a voting member of the Board.

Absent: Roy Strahan.

Also Present: Bill Lee, Town Attorney

Matt Manahan, Attorney FPLE
Andy Straz, TRC
Dave Dominie, TRC
Al Wiley, FPLE

Mr. Poulliot motioned to accept the minutes from the February 14, 2008 meeting as corrected. Seconded by Mr. Keene. Vote -Passed - Unanimous.

The purpose of the Special Meeting of the Planning Board Meeting is a public meeting to review the sufficiencies of FPLE's application to breach the Ft. Halifax Dam. Pursuant with the Town regulations, there is a 35 day time limit from the date of the application's acceptance. This limit expired on the February 14, 2008. Mr. Manahan and FPLE have agreed to allow an extension to the Planning Board. Tonight the Board is going to review the material, submissions and testimony from the applicant, the public, the site review visit and expert witnesses to determine finding of facts on the breaching.

Mr. Fletcher is formally requesting an additional public hearing (letter dated February 19, 2007) be held on the completed application from FPLE. He feels that it is unknown what is official in the record and what the Board will consider in their deliberations.

There was a Public Hearing in December and the public has been allowed to speak at the meetings. All submissions are part of the records and what has been submitted is public record and can be viewed at the Town Office. There will be a limited session for public comment. There was an anonymous letter sent to the Dallaire Street residents on the slumping that was presented by Mr. Recker. The residents and/or their representatives will be allowed to express their concerns.

Mr. Manahan and FPLE have no objections to a 15 minute hearing for those residents. They do not believe a further delay is warranted. They have to do advance work in order to submit plans for FERC and DEP.

Mr. Parker stated that Mr. Manahan, in his February 26 submission on pages 5 and 6, addressed some compromises that FPLE has made on slope failure.

Mr. Lee gave a brief summary on the Dallaire Street slumping. There was a letter sent by the Town on this issue. There were questions on the stability of the Dallaire Street slope. The Town Manager was authorized to have a study done by an expert in this field. Mr. Recker, Geotechnical Manger of Sebago Techincs, Inc., stated the probability of a serious slope problem is quite slight but if in fact it should occur, the consequence would be severe. Mr. Recker made the four recommendations as follows:

1. draw down should be done over several weeks to allow for slope stability;
2. the breach should be done at time of low groundwater conditions;
3. install inclinometers on Dallarie Street slopes and monitor them for the day following the dam breaching;
4. evacuate the houses on the south end of Dallaire Street at the top of the hill on the day of dam removal for a day or two

Sebago Techincs would like to see a slower draw down when the breach occurs to allow groundwater within the slope to drain.

Since that meeting, FPLE has agreed to Sebago Techincs recommendations and in addition they are willing to pay up to \$250 per day per family for temporary relocation for that two day period that was recommended to evacuate.

Mr. Wiley reminded the Board that there would be a three week draw down of nine feet before the breach and the remaining 15 feet of draw down will be done over a one week span. FPLE will be paying to have the inclinometers installed as well as paying for the temporary relocation of the Dallaire Street residents.

At this time the meeting was opened to the Dallaire Street residents at 6:25 p.m.

Michael Cardeiro, 15 Dalliare Street:

In the report the residents received dated January 21, 2008, on page 4, was stated that additional borings and soil samples should be taken to determine anisotropic strength properties. Also the height of the slope in the original submission was an issue. There is nothing in place to protect the home owners. The residents would like to see a bond put in place stating what FPLE will do if there is a major failure.

Mr. Parker stated that in Sebago Technic's letter dated February 26 states that the safest way to evaluate potential slope movement is to take actual measurements during the draw down and dam removal events. Sebago Technics stated that inclinometer readings will be just as effective in

determining the slope stability. The failure of the slope in 1980 was due not to slumping from the river but due to what a resident added to the top.

Scott Hermey was not told of the dam removal. The failure was caused by the work done on the sewer line at that time. Mr. Hermey does not understand why the removal is taking place. His home is all he has and he moved there because of the view.

Terry Casey, 11 Dalliare Street, wants to know what plans are in place to protect the home owners on this street if there is a failure of the slope.

Mr. Manahan stated that FPLE is following the Town's consultant's recommendations and more. They are not proposing a bond or other compensation and are not willing to go further and accept any responsibility that is not a result of the dam project.

Larry Audet spoke for his mother on 5 Dallaire Street. He stated that there has been erosion and does not feel the slope is stable. He believes that FPLE should prove that the slope is stable and that there is no danger. His father did have the Army Corps of Engineers come in at the time of the slope failure and did say it was stable. What happens later after the dam is removed to the home owners if the slope fails?

Mr. Lee addressed this issue stating the Sebago Technics did address a later possible slope failure and that if there were to be a failure it would happen during the draw down and the breaching. That is why they recommended a slower draw down and the inclinometer readings during that period of time.

Bob Hendrick, son-in-law of Dorothy Audet, said the engineer's report stated the same findings as the new report. There was a failure and the Town did settle the suit without taking responsibility. If FPLE is not taking responsibility if a failure does occur, is the Town taking responsibility where the insurance company at the time was not covering it?

Nickie Cordeiro, 15 Dallaire Street, believes that the study is a wait and see. FPLE should put something in place for the homeowners on Dallaire Street to fall back on if there is a slope failure.

Mr. Manahan stated that FPLE is following the Town's consultant's recommendations and they feel that is reasonable and that is what they are willing to do.

Rick Plante, 9 Dallaire Street, would like to know if it is possible to secure a Community Block Grant for that area.

Mr. Heavener addressed this possibility and the Town is looking into a grant and ways to stabilize the slope. This is not a new issue and the Town is looking at options to make this area safe.

Mr. Parker closed the Public Hearing on Dallaire Street at 7:05 pm.

Mr. Parker called for a break at 7:05.

Meeting called back to order at 7:15 pm.

The next stage of the permit process is finding of fact. The Board will review the criteria by which they review such an application. An e-mail was sent to the Board with general instructions on the reviewing of the materials that is before them pertaining to the Shoreland Ordinances found on page 21, section D. Along with this criteria there were concerns from the Board. They are as follows:

- Safety after the breach
- Erosion and Sedimentation Control
- Slumping of the embankment
- Pleau's Market
- Eagles
- Sewer line mitigations
- Boat launch access

Mr. Lee gave a recap of the permit processing. There are eight criteria. Some of the criteria do overlap. The Board has been provided with information on each criteria and now must reach an agreement on what the relevant facts are pertaining to each issue. Once the facts are known you must determine what it means to the application. If the Board finds that the facts do not meet the criteria they may add conditions made on the applicant's application.

Mr. Parker in looking at dam structure safety first then the slumping of the banks.

1. Will maintain safe and healthful conditions:

Facts on south side of dam: There will be an 87 foot breach, 200 feet extending outward on the south shore (Pleau's Market side), the elevation above bedrock is 11 feet at shore line and reaches an elevation 20 feet at the proposed breach. The angle upstream is 45 degrees and on the down stream side the angle is steeper. At the bottom there is a lip. If you were to walk out the width of it would be about 2 feet. If you were to walk out to the end it is about 20 feet. During the mid summer conditions the water depth would be about 6 inches and would go up with the rain. A gate with barbed wire on the top at the point where the dam interfaces with the south shore will be added. There would be "No Trespassing" signs also installed.

Mr. Carter motioned to accept the finding of facts. Seconded by Mr. Keene.

Vote -Passed - Unanimous

Facts on safety issues on the remaining structure: The gate will prevent access to the top of the dam but not prevent or limit access the top unless you want to jump from the wing to the dam. There are no preventive measures to keep the public from scaling the 45 degree side of the dam. In the winter a snowmobile would be able to use the 45 degree side as a ramp for jumping. The boat access would be close to the remaining portion of the dam. During high water someone could be trapped on the back side of the dam. There is a crawl space near the lip that will be exposed once dewatered which will allow public access and a person to become trapped.

Conclusion on the south side of the dam: The conditions on the south side of the dam as the applicant proposes in the proposal leaves the structure in an unsafe condition. The structure will be structurally sound but the structure itself will leave the ability for the public to access the structure in many different ways (in it, around it, and to crawl through it) and get hurt. Mr. Browning motioned that the applicant's proposal on the south side of the dam is not safe. Seconded by Mr. Carter.

Vote -Passed - Unanimous

Mr. Carter motioned as a condition that the south side of the dam be completely removed.

Seconded by Mr. Poulliot.

Vote -Passed - Unanimous

Facts on the north side of dam (Powerhouse side): There will be two bays left after the breaching. The angle upstream is 45 degrees above elevations 40 and is 10 feet of vertical wall. The back side will be wet, and the bank is at elevation 60. The powerhouse wall is at an elevation of 60, and at the bottom there is a lip. There is fencing around the powerhouse and water would be about six to seven feet.

Mr. Poulliot motioned that the north side is unsafe.

After discussions on why the north side would be unsafe a new motion was made.

Mr. Keene motioned that there will be a change to the two bays on the north side. There will no longer be water flowing over the top. The water level will be lower, allowing access to a place inside the bays where the footing is narrow and one could easily fall with a risk of drowning making the north side unsafe.

Seconded by Mr. Poulliot.

Vote -Passed – Unanimous

Mr. Carter stated that if the two remaining bays were removed, it would make that area safe.

The Board asked the applicant if there are any other measures that could make the area safe.

Mr. Wiley stated that they didn't have an opportunity to study other measurements that would still keep that area safe.

Mr. Parker called for a break at 9:00 p.m.

Meeting called back to order at 9:05 p.m.

Mr. Browning made a motion to make an amendment to the motion to give the applicant an opportunity to come up with an alternative method to make those two remaining bays safe.

Seconded by Mr. Poulliot.

Vote – Passed – 4 in favor (Mr. Keene, Mr. Parker, Mr. Poulliot, and Mr. Browning)

1 against (Mr. Carter)

Mr. Manahan stated that one of the conditions on the north side was to allow the applicant to make a new proposal on the remaining two bays in regards to safety. FPLE would like to know if they can provide a new proposal for the south side making that area safe without removing the structure.

Mr. Lee stated that the Board has not made a final decision and may or may not look at a new proposal.

Mr. Lee stated that the applicant has submitted a proposed finding of fact and Mr. Fletcher has submitted a proposed finding of fact. The Board is trying to put the facts together and may need something before them. Mr. Lee is willing to provide the Board with a finding of fact to follow.

Mr. Manahan was agreeable to this if it will expedite the process.

Mr. Lee stated that the Board is in deliberation and should not be giving any public comments at this time.

Next Planning Board meeting on the FPLE partial breaching of the Fort Halifax Dam will be on March 13, 2008, 6:00 pm at the Winslow Council Chambers.

Motioned to adjourn made by Mr. Browning. Seconded by Mr. Poulliot. All in favor.
Meeting adjourned 9:30 pm