

on their interpretations of the Findings of Fact on February 18, 2008 and a revised Finding of Fact on March 13, 2008. Mr. Lee submitted a Findings of Fact for the Town on March 7, 2008. The Board will review those draft Findings of Fact and determine the Board's Findings of Fact. This is all being reviewed under the Shoreland Zoning Ordinance. The eight criteria are as follows:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion or sedimentations to surface waters;
3. The proposed use will adequately provide for the disposal of all waste water;
4. Will not have an adverse impact on spawning grounds fish aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Proposed use will protect archeological and historic resources as designated in the Comprehensive Plan;
7. Will avoid problems associated with Flood Plan Development and Use; and
8. Is in conformance with the provisions of Section 15, Land Use Standards.

Mr. Lee spoke on the possible Findings of Fact that he submitted. This draft is to help the Board with possible language to use in making factual findings and conclusions of law. The Board members alone are the fact finders.

Jane Edwards had a question on procedure – Can a public health or safety topic that may come up later, be discussed at a later date?

Mr. Lee stated yes, they can bring it up for discussion at that time. What happens with that information is up to the Board.

Mr. Parker reviewed the concerns from the previous meetings as follows:

Safety After the Breach

Erosion and Sedimentation Control

Slumping of the Embankment

Impact on Pleau's Market

Eagles

Sewer Line Mitigation

Boat Landing

At the last meeting the Board started the Findings of Fact and the Conclusions of Law process focusing on the safety issue. The Board did not complete the aspect of Findings of Fact and the Conclusions of Law on safety issues, but would like to divert to the sewer line as Mr. Hodsdon was present to discuss the sewer line.

Mr. Hodsdon, AE Hodsdon Consulting Engineers stated that the sewer line is a double barrel siphon system, with the draw down being 570 feet of sewer line that will be close to the surface with the potential to freeze. In the low flow conditions of January and February, there is very little flow because the ground is frozen and there is nothing getting into the pipes. The pipe line is also exposed at the bottom of the stream and there is about 570 feet that is only two feet deep and should be

covered at least five feet deep with soil. If the pipes are not covered with the deeper top soil they will freeze and crack. The pipe would have to be buried deeper to protect the line.

Mr. Keene asked if the sewer pipe is buried deeper would it protect the line?

Mr. Hodsdon stated soil can not be put on top as it would cause erosion during high water mark. There should be construction of a new double barreled siphon system next to the existing sewer lines. There is ledge at the bottom of the stream so there would need to be some blasting done in order to bury the pipe deep enough to protect it from freezing.

Mr. Parker asked how the blasting would be done and the effect on the possible slumping of the Dallaire Street area.

Mr. Hodsdon stated the blasting would be done in short blasts, twenty feet in length to get the trench. When they blast, they will use delayed fuses on the caps so they go off at thousandths of a second interval. This would be five hundred feet away from the Dallaire Street slump area. There would also be seismic recorders to determine the impact the blasting would have. He does not feel the blasting would have an effect on that area. Vibrations or constant shock waves would be what would effect the slumping. There would be three to four blasts.

Mr. Poulliot asked if there is a financial arrangement between the Town Council and FPLE and if not, is the Planning Board to be concerned about it at this time.

Mr. Lee replied not at this time. If the Board is to take action at this time, they could take the approach similarly to DEP without assigning any financial responsibility. You can direct the applicant to take certain actions to make sure the sewer line is protected. The Board can not adjudicate final financial responsibility just as the Maine DEP does not adjudicate final financial responsibility. There is a draft Findings of Fact and Conclusions of Law just for the question that has been raised.

Mr. Lee reminded everyone present that it is the Board that determines the Findings of Fact and Conclusions of Law. The draft is to help the Board with language on the Findings of Fact and Conclusions of Law.

The following is the revised draft Findings of Fact and Conclusions of Law for the sewer line: Applicant has proposed protecting Town's sewer line in accordance with the MDEP Permit. That permit requires FPL Energy to protect the sewer line from damage due to soil erosion and ice. The MDEP permit does not require FPL Energy to protect the inside of the sewer line from freezing. The testimony of Engineer Al Hodsdon establishes that one of the two sewer lines will have little flow during the winter months. His testimony also establishes that after draw down approximately 570 feet of the sewer line will be close enough to the surface to potentially freeze. If freezing occurs, the sewer may split, discharging untreated sewage onto the land and into Sebasticook River. To prevent water pollution and a health risk, approximately 570 feet of the sewer line will need to be replaced and reburied to a depth to avoid freezing.

Drafted Conclusions of Law:

The portion of the Application relating to protecting the Town's sewer line is inadequate and is disapproved. With the following condition, this aspect of the Application is approved:

Without assigning ultimate financial responsibility, FPL Energy, in consultation with a Town selected engineer, will replace the approximately 570 feet of sewer line referenced in Engineer Albert Hodsdon's March 12, 2008, report to the Town, in a manner to protect the sewer lines from freezing or damage caused by soil erosion or ice.

Mr. Strahan questioned if there may be another way to protect the sewer line without burying the lines.

Mr. Hodsdon stated that in short sections the pipes could be insulated with two to four inch thick pieces of styrofoam, two to three feet in length. It does not make sense to blast a ten foot trench to cover a two to three foot pipe line through the ledge. The whole sewer line could not be done this way with insulation. Frost can work its way down and around the insulation causing freezing and the pipe to crack. The equation of soil to insulation is that two feet of soil on top is equal to two inches of insulation. The material will be flush with the ground surface so there would be no wash away of the materials at high water. The weight of the sand bags would keep the insulation on the sewer line in place.

Mr. Keene motioned to approve the Findings of Fact for the Town sewer line as drafted by Mr. Lee. Seconded by Mr. Browning. Vote – Passed – Unanimous

Mr. Keene motioned to approve the Conclusions of Law for the Town sewer line as drafted by Mr. Lee. Seconded by Mr. Poulliot. Vote – Passed – Unanimous

At the last meeting on the February 28, 2008 the Board had discussed the safety on the northerly portion of the remaining piece of the Fort Halifax Dam on the Power House side.

The recap was presented by Mr. Lee referring the Board to page four of the drafted Findings of Fact and Conclusions of Law. If the applicant wishes to submit an alternate plan to prevent access to the recessed areas at the base of the two northerly bays the Board will consider it. The Applicant does not wish to provide an alternative plan, therefore the applicant must meet the condition to remove the two bays that the Board voted and passed at the February 28, 2008 meeting. This is as far as the Board has gone in their deliberations.

Mr. Carter asked about the issue of the racks and the discharge side of the generators once the water is lowered. There are two entrances that will be exposed which could be a safety issue for the public.

Mr. Wiley stated the racks are flat, angled and spaced about an inch and a half on center which becomes a barrier preventing anyone from getting in. There are draft tube gates that will be dropped down like those on the intake side that would permanently prevent water from flowing through. The racks are made of steel and it is FPLE responsibility for the maintenance of the racks. It is still FPLE's facility and in their best interest to maintain the facility.

Mr. Lee presented a draft for the Findings of Fact as follows:

When the draw down is complete, recessed areas will be exposed on the down stream side of the Power House, when exposed will present a potential danger to the public. To protect the public, permanent gates of suitable materials must cover the down stream entry points and there will be gates permanently covering entry points on the south face of the power house.

Mr. Browning motioned to accept the drafted Findings of Fact. Seconded by Mr. Strahan.
Vote – Passed – Unanimous

Mr. Parker referred to page 4 of the draft Findings of Fact and Conclusions of Law that deal with other areas of safety on the Power House and related areas on the northerly side.

Mr. Lee stated that when the final document is written the subheadings will be integrated into one heading.

Safety of Power House and Related Areas on the Northerly Side

Drafted Findings of Fact:

Upon removal of the dam, the power house will be surrounded on three sides by water and the walls of the power house structure are vertical, which greatly restricts the ability of anyone to gain access from these points. On the land side of the power house there is fencing with barbed wire strands at the top designed to prevent access. FPL has agreed that any fencing that has been damaged will be replaced or repaired and maintained in good condition to prevent access to the power house.

When the draw down is complete, recessed areas on the west side of the powerhouse are exposed and accessible, which presents a danger to the public. To protect the public, permanent gates of suitable materials must cover the entry points on the west and south faces of the power house.

Mr. Keene motioned to accept the drafted Finding of Fact. Seconded by Mr. Browning.
Vote – Passed – Unanimous

Drafted Conclusions of Law:

With the repair or replacement of damaged fencing and the addition of fencing as may be necessary to restrict access when the water level is lowered, this aspect of the Application will maintain safe conditions and is approved.

Mr. Keene wanted to insert the fact about the permanent gate at the south and west faces of the power house to the Conclusions of Law.

Mr. Parker called for a ten minute break at 7:35 p.m.
Mr. Parker called the meeting back to order at 7:43 p.m.

Mr. Lee read the revised draft Conclusions of Law as follows:

With the repair or replacement of damaged fencing and the addition of fencing as may be necessary to restrict access when the water level is lowered, and with permanent gates of suitable materials covering entry points on the south and west faces of the power house, this aspect of the Application will maintain safe conditions and is approved.

Mr. Browning motioned to accept the drafted Conclusions of Law. Seconded by Mr. Strahan.
Vote – Passed – Unanimous

Stability of Power House and any Remaining Portion of the Dam Structure

Drafted Findings of Fact:

The engineering reports submitted by FPL Energy indicate that the powerhouse and any portion of the dam remaining are structurally stable. As the power house and any remaining portion of the dam will exist indefinitely into the future. Repairs to the remaining structures may be necessary and must be made by FPLE to keep them safe.

Mr. Keene motioned to approve the language as drafted in Findings of Fact. Seconded by Mr. Browning. Vote- Passed - Unanimous

Conclusions of Law:

With the requirement that necessary repairs will be made in the future by FPLE, the remaining structures will maintain safe conditions and this aspect of the Application is approved.

Mr. Keene asked how the Board will know FPLE will be able to maintain this indefinitely into the future.

Mr. Wiley stated that the agreement with CMP, in reference to the power house, FPLE has an obligation to maintain it.

Mr. Manahan stated that just like any other land owner they have a responsibility to maintain their property.

Mr. Lee stated that the conditions that have been put in place would carry over to the new owner(s).

Mr. Keene motioned to approve the drafted Conclusions of Law. Seconded by Mr. Browning.
Vote – Passed – Unanimous

Dallaire Street Slope Stability

Mr. Parker presented the third report from Sebago Technics dated March 10, 2008, on the slope movement monitoring process during and immediately following the reservoir draw down. The inclinometers and piezometers will be monitored electronically twenty-four hours from any remote location. The process can be summarized as follows:

1. Contract and schedule the specialty subcontractors and instrumental hardware providers;
2. Develop conceptual module of failure;
3. Plan locations and depths for slope inclinometers and piezometers;
4. Determine that access to the required drilling locations is possibly legal and logistically;
5. Drill borings doing simple sampling and testing on the way down to plan the depth of instrumentation;
6. Install instrumentation and make it operational;

7. Develop background measurements prior to draw down and monitor during early reservoir draw down to insure instrumentation is responding correctly;
8. Monitor instrumentation twenty-four hours a day during reservoir draw down;
9. If amount in, rates or strain in critical zones occur during draw down, in our opinion suggest a threat to a house, we would request the draw down be stopped until conditions are favorable to continue; and
10. We would continue the measurements until a day after the reservoir is drained to the post demolition level. If the measurements indicate satisfactory conditions the monitoring will be discontinued and people can return to their houses.

This third document gives the Board more background.

Mr. Keene feels the situation of the ground is not fully understood and a preventative plan would be more appropriate in this situation. The residents of Dallaire Street would like to see the houses relocated to the top of the hill in order not to be harmed.

Mr. Carter agrees with this approach, they are not talking about just a bank sloping but about peoples lives and houses.

Mr. Manahan stated FPLE is proposing preventative measures and this is why they are doing the draw down as they are doing it. It is obvious it is not the same preventative measure that is being discussed but, Mr. Gerber and Mr. Recker have agreed with the general approach which is a slow deliberate draw down before the breach to make sure the water is out of the slope. FPLE has increased the length of the draw down from what FERC and the DEP had approved in order to address this very concern. They propose making it for a week as opposed to the one to two days previously proposed. Given the fact that the previous draw down had no adverse effect, there is no indication that the dam will have any impact on slope stability FPLE feels these are cautious, preventative measures along with the evacuation of those residents.

Mr. Keene presented a map showing contour lines of the Dallaire Street area with the source of the map coming from the Kennebec Valley Council of Government. Mr. Keene drew a line up the steep slope and drew a profile on the slope calculating the slope to be 2 to 1 not 1 to 1. A discussion that Mr. Keene had with an engineer state that to have a stable slope with type of soil, you would normally have a 3 to 1. Mr. Manahan objected to Mr. Keene gathering evidence outside the Planning Board process and having discussions with them.

The discussion was stopped on this information.

Mr. Keene asked for a FPLE to provide a drawing of the contours of Dallaire Street and the information on the slope.

Mr. Straz stated there is no drawing; they did not have any prior indications that there were issues with that area.

Mr. Wiley stated that no one wants anything to happen to Dallaire Street. There is an issue of slope stability regardless of the dam draw down. What the Town's engineer has tried to do is take a look at

the impact to the stability of the slope due to the proposed draw down and has recommended actions to be taken that would prevent additional impact as a result of FPLE's actions. FPLE is ok with issues that they are responsible for the actions that they take. FPLE should not be looked at as folks who take care of other issues that are unrelated to the draw down that they are proposing.

Mr. Carter stated that for a number of years no work has been done below the slope and no houses have gone into the river. The time work was done, a house went into the river.

Mr. Wiley asked what did cause the house to go into the river. There were discussions about a building placed on top of the bank, the Town doing work on the sewer line, cutting into the bank and putting in a road on the embankment causing the house to slide. There was no discussion on the water levels but, on the work that was going on in that area. FPLE will take responsibility for their actions but should not be held accountable for other things that are unrelated to their actions.

Mr. Parker stated that at the last meeting the Dallaire Street residents have concerns with ramifications should something happen to their homes. Has FPLE considered a bond or line of credit?

Mr. Manahan stated in the terms of the sewer line, it is not the Planning Board's menu to allocate responsibility in terms of financial responsibility. FPLE will take responsibility for what they are responsible for.

Mr. Lee asked if FPLE would produce an irrevocable letter of credit drawn in an amount equal to the fair market of those five homes. It would be drawn on by order of the Town upon damage or loss of one or more of those properties because of the draw down.

Mr. Wiley wanted to make sure that it would be for failure due to the draw down and not because of something that the property owner or some other person did to cause the failure. As an example if one does work or an ATV goes by then FPLE would not be responsible.

Mr. Lee stated it would be concerning failures caused by the draw down. If there is a failure due to the draw down it would happen during the draw down process or immediately there after.

Mr. Manahan asked who would determine the responsibility of the failure.

Mr. Lee stated that Sebago Technics would be the engineers doing the monitoring so they would determine responsibility. They can determine with the monitoring any failure to the slope during draw down.

Mr. Keene stated that there has been one recommendation of solving the Dallaire Street problem and the residents have offered another solution. Their solution is to relocate the homes further back from the slope. The movement of the river during flooding could cut into the slope and cause de-stabilization to the slope and that has not been addressed. By using the alternative method, you bypass any de-stabilization caused by movement the river.

Mr. Manahan stated Sebago Technics did address the issue, which is a condition that has not resulted from removal of the dam but is a result of the water in a natural condition.

Mr. Browning would like to see the monitoring continued after the draw down to see if there is any thing more going on and to extend the letter of credit a little longer after the draw down. If anything does happen, the home owners have some sort of recourse.

Mr. Poulliot would like to see more testing done. Another firm could provide more information on the stability and the continued monitoring after the draw down.

Mr. Strahan would like to see the monitoring continued after the draw down and a letter of credit for FPLE to help the home owners if anything should happen to their homes because of the draw down of the dam.

Mr. Parker would like to see additional monitoring equal to the draw down period.

Mr. Lee stated if Board thinks that there should be a bond, irrevocable letter of credit or other suitable financial guarantee drawn in an amount equal to the fair market of the properties that may be drawn on by order of the Town if in there is damage or loss of properties as a result of the draw down, a draft version could be given to the Board to contemplate.

Mr. Parker asked when fair market value or assessed value will be determined.

Mr. Lee stated the fair market value would be determined before any publicity on that area and would be determined by a neutral party.

Mr. Browning stated the homes should be evaluated and documented before the dam removal.

Mr. Lee stated possible additions to the Findings of Fact could read as follows:

In the event of a slope failure that damages or destroys homes on the south side of Dallaire Street, the residents may have homes that are uninhabitable or no homes at all. Several residents testified that they have no insurance coverage to protect them from such a loss. To protect the residents from such tragic consequences requires that they have the financial ability to either have their homes promptly repaired, or purchase substitute properties.

Possible additions to Conclusions of Law that would come from the Findings of Fact could read something like this:

x. FPL Energy will obtain a bond, irrevocable letter of credit, or other suitable financial guarantee in form satisfactory to Town Counsel in an amount equal to the fair market value or replacement cost, whichever is greater, of 5, 7, 9, 11, 13 and 15 Dallaire Street. It will be drawn upon by the Town in the event there is damage or destruction of any of the homes due to a slope failure caused by the drawdown. Said financial guarantee to be cancelled upon Sebago Technics determining the residents can safely return to their homes. Fair market value will be determined by the assessor at or before the time of draw down independent of any impact on value by the slope failure possibility by caused by publicity.

Mr. Browning would like to see the letter of credit remain in place two or three months after completion of the project.

Mr. Parker called a recess at 8:40 p.m.
Meeting called back to order at 8:50 p.m.

There have been some questions on establishing the value on the homes in regards to replacement value.

Mr. Poulliot thought the assessment should be based on market value. Replacement value would not work as there would not be a lot to replace the home on.

Mr. Parker would like to use all three values.

Drafted Findings of Fact:

Taken together, the three reports of Sebago Technics, and the testimony of Mr. Recker of Sebago Technics, establish that the risk of a major slope failure with the draw down of the Fort Halifax Dam impoundment is very low but not totally impossible. The safest way to determine the possibility of potential slope movement is through monitoring the potential for movement rather than conducting test borings. While the possibility of major slope failure may be very low, the consequences of such a failure produce risk of damage to the homes at 5,7, 9, 11, 13 and 15 Dallaire Street and injury or death to the occupants therein.

Small differential soil movements will occur prior to slope failure. The use of inclinometers on the Dallaire Street slope during the entire draw down process will allow for the detection of these small soil movements. The inclinometers will be monitored electronically twenty-four hours a day by Sebago Technics.

If the inclinometer readings indicate a developing risk of possible slope failure, as determined by Sebago Technics, draw down should be halted. The draw down may resume when Sebago Technics determines it is safe. There are devices that FPL Energy can use to halt the draw down.

If soil conditions remain stable for twenty-four hours after completion of the draw down, residents may then safely re-occupy their homes, but to be cautious, monitoring will continue for two (2) weeks after completion of draw down. If Sebago Technics detects developing slope problems during this two (2) week period, the residents will be promptly notified.

Testimony of several Dallaire Street residents establishes that they do not have the means to pay for substitute accommodations during this precautionary evacuation period. FPL Energy's offer of \$250.00 per day per family for substitute accommodations is sufficient to allow these residents to obtain substitute accommodations in the immediate area.

Mr. Browning motioned to accept the Findings of Facts as drafted. Seconded by Mr. Strahan.

Vote – Passed - 3 for Mr. Parker, Mr. Strahan, Mr. Browning.
2 against Mr. Keene, Mr. Poulliot.

Drafted Conclusions of Law:

With the addition of the following conditions, this aspect of the Application is approved:

- i. The pre-dam breach draw-down of nine feet will occur over a period of two weeks at a time of low groundwater conditions;
- ii. The final draw-down of fifteen feet following dam removal will be scheduled to occur over a seven day period;
- iii. Sebago Technics will install and monitor inclinometers on the Delloire Street slope and draw-down will be halted whenever Sebago Technics detects a developing slope failure risk. Sebago Technics will determine when draw-down may safely be resumed;
- iv. FPL Energy will give a minimum of seven days advance notice to the residents of 7, 9, 11, 13 and 15 Delloire Street of the anticipated date of dam breach;
- v. These residents will be urged to evacuate their residences during the draw-down after breach of the dam;
- vi. The precautionary evacuation will end when Sebago Technics determines the residents may safely return to their homes;
- vii. FPL Energy will pay \$250.00 per day per family unit to the residents of 7, 9, 11, 13 and 15 Delloire Street who actually evacuate, from the date of evacuation to the date Sebago Technics indicates they may return;
- viii. To facilitate the ability of residents to promptly return to their residences, residents are urged to leave with the Town office telephone numbers or other means by which they can be reached;
- ix. FPL Energy will pay Sebago Technics for the cost of installation and monitoring of the inclinometers and related work; and
- x. In the event slumping or erosion occurs in the Delloire Street slope area within a year of dam removal, and this event is determined by Sebago Technics to be related to the draw-down, FPL Energy will remediate that slumping or erosion at the direction of Sebago Technics. The cost of Sebago Technics services is to be paid by FPL Energy.
- xi. If for some reason Sebago Technics does not perform the work described above, it will be performed by another geotechnical engineer selected by the Town and paid for by FPL Energy.

Mr. Keene stated that after the water level has been lowered the rate of flow in the resulting river will be faster than it was when it was an impoundment. When the faster flow comes against the out side of the curve in the river against the Delloire street bank it may erode and undercut the bottom of the bank over time and cause the bank to fail. This is different from slumping of the bank during the lowering of the water elevation or water coming through the soil into the river during the years after the removal of the dam. He said he thought that a visual observation over a period of maybe 5 to 10 years might be needed to determine if this might be a problem. If the problem occurs FPLE should be held responsible for doing what it might take to stop this from happening. It might be necessary to construct a retaining wall to prevent this kind of erosion.

The access road for dam removal and sewer line repair work runs immediately adjacent to one side of Pleau's Market. The effects of heavy truck traffic could potentially damage Pleau's Market. Pleau's Market and FPL Energy have reached an agreement to protect Pleau's Market from damage caused by dam removal and sewer line replacement work.

Mr. Strahan motioned to accept draft Findings of Fact as written. Seconded by Mr. Keene.
Vote – Passed - Unanimous

Drafted Conclusions of Law:

If the following conditions are met, the Application pertaining to Pleau's Market will maintain safe conditions and is approved:

- i. Any drainage or surface improvements to the access road shall not adversely affect drainage on Pleau's Market property;
- ii. No equipment staging may occur near Pleau's Market; and
- iii. Compliance with the terms and conditions contained in the February 14, 2008, Agreement between FPL Energy and Pleau's.

Mr. Lee stated that iii to include the sewer line replacement work could read: Compliance with the terms and conditions contained in the February 14, 2008, Agreement between FPL Energy and Pleau's Enterprises during dam removal and sewer line construction.

Mr. Keene motioned to accept Conclusions of Law with revisions. Seconded by Mr. Browning.
Vote – Passed - Unanimous

Public Roads and Bridges

Drafted Findings of Fact:

A condition of the permit granted by MDEP is that FPL in consultation with the Maine Department of Transportation, the agency charged with protecting public roads and bridges, shall take appropriate measures to monitor and protect the Garland Road, Mile Brook Bridge, Winslow Bridge, and Sebasticook Bridge from damage due to bank erosion and scour from increased stream velocities resulting from dam removal. The requirements that will be imposed by Maine Department of Transportation will be sufficient to protect public roads and bridges.

Findings of Fact to be revised to include Route 201, Sebasticook River Winslow Bridge and Sebasticook River Railroad Bridge.

Mr. Browning motioned to accept Findings of Facts with revisions. Seconded by Mr. Strahan.
Vote – Passed - Unanimous

Drafted Conclusions of Law:

Provided that FPL Energy follows the recommendations of the Maine Department of Transportation for the protection of public roads and bridges, safe conditions will be maintained and this aspect of the Application is approved.

Mr. Browning motioned to accept drafted Conclusions of Law. Seconded by Mr. Strahan.
Vote – Passed – Unanimous

Public Safety During Removal

Drafted Findings of Fact:

The permit issued by FERC includes a condition requiring FERC review and approval of (i) a public safety plan for the decommissioning/dam removal, (ii) a Construction Quality Control Inspection Program (CQCIP), (iii) a Temporary Construction Emergency Action Plan, (TCEAP), and (iv) a blasting plan, at least 60 days prior to the start of construction activities. With these conditions being followed public safety during dam removal will be maintained.

Mr. Keene motioned to accept drafted Findings of Fact. Seconded by Mr. Browning.

Vote – Passed – Unanimous

Drafted Conclusions of Law:

Provided the conditions contained in the FERC permit pertaining to public safety during dam removal are followed, safe conditions will be maintained and this aspect of the Application is approved.

Mr. Keene motioned to accept drafted Findings of Fact. Seconded by Mr. Browning.

Vote – Passed – Unanimous

Will Not Result in Water Pollution, Erosion or Sedimentation to Surface Waters

Drafted Findings of Fact

The Maine Department of Environmental Protection and the Department of Inland Fisheries and Wildlife have imposed detailed requirements on FPL Energy to prevent water pollution, erosion or sedimentation to surface waters. Compliance with these conditions is necessary to prevent these problems. Additionally, the Soil Erosion and Sedimentation Control Plan dated December, 2007, has been approved by MDEP, and by Mark Mitsch of Weston and Sampson Engineers, who additionally found that, the draw down would not produce un-stabilized soil conditions. Mark Mitsch was a town employed reviewing expert.

There has been some conflicting evidence presented by Peter Newkirk, who is both a member of SOS and head of the Surface Waters Resources Unit of DOT. In recent testimony Mr. Newkirk reiterated some of the objections noted in his 11/27/07 submission to the Planning Board, but did note that the December 2007 FPL Energy plan did at least require timely monitoring of the re-growth of vegetation.

Effective re-growth has been noted by both Mr. Mitsch and Mr. Newkirk to require a significant portion of the growing season to occur after the actual breach. A breach occurring on or before July 16 will allow significant re-growth to occur.

During construction of the access road certain trees will need to be removed. Any tree measuring six inches or more in diameter 4.5 feet above the ground will need to be replaced.

The MDEP order indicates that those residents with overboard discharge systems should be able to extend their discharge lines, if they wish, at minimal expense, to the Sebasticook River. To

accomplish this FPL Energy needs to grant permission to these property owners to cross FPL Energy property to the river.

Mr. Keene would like clarification by Sebago Technics on the monitoring of the Dallaire Street slope of one year as being sufficient.

Mr. Poulliot would like clarification on cycles that the river would go through to determine the natural flow.

A request for Mr. Mitch to clarify the latest date that draw down could be completed and still allow time for re-vegetation.

Mr. Keene requested from the MDOT that FPLE and MDOT have been working together on the erosions and sedimentation plan.

Mr. Manahan stated that the draft Findings of Fact should be revised to read The Maine Department of Environmental Protection and PERC not IF&W.

Mr. Browning motioned to accept Findings of Fact with revisions. Seconded by Mr. Poulliot. No vote was taken.

Drafted Conclusions of Law:

Conditions imposed by MDEP and IF&W to prevent water pollution, soil erosion and sedimentation to surface waters are adequate, and with the following added conditions, this aspect of the Application is approved:

- A. All trees six inches or more in diameter, measured 4.5 feet above ground level, that are removed during construction of the access road shall be replaced following completion of dam removal activities, at a time when tree survival is optimized;
- B. Replacement tree shall be substantial nursery stock of at least four to six feet in height;
- C. The completion of the draw-down must occur on or before August 15th, and the decision on active re-seeding should be made within two weeks of the completion of the draw-down.; and
- D. FPL Energy will allow those with overboard discharge systems to extend them across its property.

The Planning Board asked for an extension as they still had several criteria left.
FPLE agreed to this.

Next Planning Board meeting on the FPLE partial breaching of the Fort Halifax Dam will be on March 17, 2008 at 6:00 pm at the Winslow Council Chambers.

Motioned to adjourn made by Mr. Browning. Seconded by Mr. Poulliot.
Meeting adjourned at 10:30 p.m.