

BOARD OF SELECTMEN
Minutes of March 30, 2015

MEMBERS PRESENT: Chairman Ross McLeod called the meeting to order at 7:00 PM. Selectmen Bruce Breton, Joel Desilets, Al Letizio, and Roger Hohenberger were present, as was Town Administrator David Sullivan. Also present were Windham's State Representatives.

Mr. McLeod advised that representative from Kinder-Morgan (KM) would begin the evening's discussion with a brief presentation; following by a question and answer session.

Mr. Allen Fore of Kinder-Morgan noted that fellow representatives Curtis Cole, Mark Hammerlich, and Mike Lennon were also in attendance. He then hosted a presentation similar to that given to the Board of Selectmen on January 5th; which overviewed the proposed project, the permitting process and oversight, and Kinder-Morgan's community outreach efforts.

Mr. McLeod then opened the floor to the audience for questions/discussion.

- Gail Gumbel, Autumn Street, approached raising concerns regarding emergency response to pipeline incidents; noting that Windham does not have the assets to respond and that taxpayers would bear the burden to obtain equipment and training for same. KM replied that they deal closely with individual communities regarding emergency response; and that they are open to discussions. Chief McPherson approached at Mr. McLeod's request and clarified that the Department's capabilities to respond are 10-fold and further Windham belongs to the Southeastern NH Hazardous Materials Mutual Aid District. He noted he is very confident that any incident could be handled with our personnel and the additional resources available. He indicated that the Haz-Mat District has over \$1M in assets at their disposal, as well as 44 trained personnel.
- David Rushton, Autumn Street, approached with concerns regarding property devaluation, safety, and the environment. He questioned whether the pipeline was needed and, if so, whether the capacity proposed was necessary or if the intention was to export the product. He also raised the matter of the alternative Spectra Energy proposal. Lengthy discussion ensued, with KM clarifying that their project was being proposed for the maximum but, if there were no market for it, they would not file for same. They indicated the size/scope/permissibility of the final pipeline has yet to be determined. It was also noted that Spectra, as yet, has no customers, and that KM is an open market provider obligated by FERC to provide product if approached.

Mr. Rushton then noted that use of the present line/right-of-way would eliminate the impacts to homeowners; adding that this proposed pipeline at this capacity was not needed. He indicated that most communities are opposed, and suggested that the Board of Selectmen make a clear statement that Windham is, as well. Further lengthy discussion ensued regarding the Spectra project and the relevancy of the market to both; with KM indicating that both are critical to serving New England and the benefits to the area are lower costs.

- Homer Shannon, Autumn Street, raised concerns regarding payments to landowners and the potential federal tax ramifications of same; citing as an example the loss of health care subsidies. KM noted the various scenarios, such as the purchase of permanent easement versus a temporary workspace easement and the payment of damages, if any. KM noted that they, through negotiations, work with homeowners and that there have been some who opted to take quarterly or deferred payments to avoid potential ramifications. Discussion ensued regarding the negotiation process, the survey process to determine the number of impacted properties, and the length of the process leading to the acquisition phase.

- Terry Trudel, Autumn Street, approached noting the extensive time taken away from residents seeking information on the project since first being notified. He then noted local zoning regulations and the minimum lot requirements therein; noting that the proposed right-of-way will take 15,000 sft from his lot thus making it non-conforming. Mr. McLeod noted that there was a memo on hand from Town Planner Elizabeth Wood relative to same. Mr. Trudel went on to note that the Town should not support a proposal that violates local ordinances; adding that the co-location will be devastating to Autumn Street. He then presented a graphic depiction of the buffer area pre and post-cut and noted that Mr. Letizio and Mr. Desilets had visited the neighborhood. He noted that the Town has ordinances in place regarding buffers and that he feels this is an industrial use and should have to adhere to larger buffer zones.

Community Development Director Laura Scott approached and confirmed that, if the project were to move forward, it would result in some lots becoming non-conforming. She then noted that KM does not have to adhere to the zoning requirements or go to Planning Board; and that the non-conforming status may make it difficult for property owner to obtain approvals in the future.

Mr. Letizio sought clarification as to whether the post-cut graphic was an accurate depiction. KM replied that ideally the pipeline will be wholly within the power line easement, and that these represent areas where they need to find a way to reduce the 50' needed outside of same; adding that based on preliminary designs the graphic appeared to be accurate. KM noted that they need to work with the power company and complete property surveys and then get that information into the engineers hands; adding that they are aware of owner concerns regarding privacy buffers and will do minimum cutting followed by re-vegetation. Lengthy discussion ensued regarding the amount of trees to be removed, and that KM is still working with the power company and is committed to working to get the pipeline inside the easement; the latter of which is not a safety or construction issue, but rather a logistical and negotiation issue.

- Margaret Case, Mountain Village Road, approached questioning what the benefit was to Windham (eg can we tap in); noting that we have had a line through town for years which no one had tied into. KM noted that the existing laterals are currently at maximum capacity; which is driving costs up. The benefits of the new pipeline will be lower electrical costs. Discussion ensued.
- Mr. Desilets inquired whether KM would make a commitment to make every single impacted homeowner "whole". KM noted the difficulty in discussing same without visual inspections/surveys; adding that through the survey data and future negotiations they will be in a better position to work with homeowners. Discussion ensued, and Mr. Desilets inquired how KM would make up for the potential tax ramifications suggested by Mr. Shannon. KM reiterated that a permanent easement payment is taxable as income; and that flexibility comes in how/when the owner takes payment. It was noted that payment for damages are not taxable in most cases.
- Paul Sullivan, Autumn Street, sought clarification as to whether KM had permission from PSNH at this point to locate the project within their corridor; and KM replied in the negative. Mr. Sullivan noted the hypothetical nature of the discussions, and that FERC records are available as to how many have refused property surveys, which is less than 30%. He noted the effects of tree cutting will be devastating.
- Mark Ferentino, Autumn Street, indicated he had just purchased his home eleven months ago. He went on to cite a recent home explosion in Auburn, which had resulted in the deaths of young girls. Mr. Ferentino noted he had created trails in his yard/woods, and that his buffer will be gone. He indicated the only benefits of the project will be to KM, and not the Town; adding this was disgraceful.

Discussion ensued regarding safety and KM's tree replacement plans; with KM noting they are taking into consideration the impacts of the removal and that the Public Utilities Commission and government are involved to ensure all parties utilize the least impactful option. As it pertained to safety, KM reiterated that the placement is still being determined and safety of the pipeline begins with the routing followed by the design, use of qualified contractors, coating and hydrostatic testing of the system, and a myriad of programs for monitoring. KM indicated that, in the rare case of an emergency, they are able to shut-in the line; noting that there have been lines in Town for 60 years without incident. As to the possibility of stray current,; zinc anodes are used along with comprehensive programs to combat same.

- Donna Witte, Autumn Street, approached noting that she lives within 950' of the line; which is in the "incineration zone" wherein there is 90% mortality in 90 seconds. She noted that there are multiple cul-de-sacs in the area, one of which has a day care, and that there is no way out of those roads in the event of incident. Ms. Witte indicated that KM has had 37 reportable accidents in the last 20 years. She then noted that, in West Virginia, a 4 month old 36" pipe had exploded due to a bad weld; destroying homes 2000' away and burning 5 acres. Discussion ensued regarding the relative safety of pipelines versus the magnitude of accidents when they do happen, as well KM's commitment to maintenance and their more stringent oversight/integrity management in high consequence areas.
- Wendy Lundquist, Winter Street, approached noting the past Windham incident in which a high tension wire had snapped and set off a fire; emergency response to which had taken an hour. She also noted there is no way to get the daycare children out in the event of an incident; adding she did not believe the pipeline should be under a power line as 3 or 3.5' down is not enough depth and thus poses a safety hazard. KM noted that 3' is the average depth, that children would not be able to damage the steel, and that at that depth the line is protected from surface fire. As to stray voltage hazards, KM reiterated mitigation of same via zinc ribbons to divert the voltage and grounding. Discussion ensued.
- Gary Bennett, Castle Hill Road, noted that the proposal runs right through Wentworth Circle; adding that KM has also not done their homework with PSNH regarding the right of way. He then noted that the project had been chased out of northern Massachusetts. KM indicated that the work with PSNH doesn't happen overnight, and they are looking to determine the best path. As to Massachusetts, KM indicated that originally the route was more in that State, and that the bulk of it remains there. KM noted that they are trying to determine the least impactful solution from a high level perspective, and that they are here because of customer and co-location interest. Discussion ensued.
- Mr. Desilets inquired what the alternate route is, if Windham is the preferred route. KM noted that the global, alternate routes still exist, such as the Mass Turnpike, the existing 200 line, and localized alternatives; adding that at this point it is still in process. Mr. Desilets inquired what KM's number one alternative would be besides through Windham; and KM noted that the proposed route is the primary, and they do not have an alternative to avoid it.
- Bob Leonard, Meetinghouse Road, sought clarification as to whether KM was a private company and what their return investment would be on the project. KM confirmed the former, and noted they won't know the return until the line goes into service. Discussion ensued, and KM indicated a 10-20% return was possible. Further discussion ensued regarding costs vs. profit and rate caps, and Mr. Leonard noted he was opposed to the project as there was no benefit to Windham.
- Don Johnson, Autumn Street, noted his well is within the proposed project area and that the project cannot be zig-zagged in their area as suggested, due to Beaver Brook. He also expressed concerns regarding the size of the pipe and related valve station and that, as to KM's survey requests, that information is available at the Town Hall. He indicated he did not believe KM was

here in good faith as they had not gone to the trouble to obtain same. KM indicated that the valve station is not significantly bigger and clarified that there is a separate team of individuals from the survey team which is gathering the tax maps, deeds, etc.

- Jeff Zampieron, Sunridge Road, noted that the Supervisory Control and Data Acquisition (SCADA) monitoring system KM would utilize has been proven vulnerable to cyber-attack; questioning whether KM has a team/measures in place to prevent same. KM replied they were certain these were in place, but could not advise on the specifics.
- Paul Sullivan noted there are no regulations in place as to how close the pipeline can be put to a house, but there are regulations regarding construction of new dwellings by existing pipelines; adding it is recommended they be 600'-1000' away. Discussion ensued, and KM indicated they would need to review same.
- Bruce Witte, Autumn Street, approached seeking clarification as to whether Eversource was an equity investor in the Spectra project. KM replied in the affirmative; reiterating that Spectra currently has no customers. KM noted that Eversource has cooperated throughout, and their relationship with Spectra will not negatively impact negotiations.
- John Bassett, Netherwood Road, approached raising concerns regarding divesting of power operations and whether there was any other oversight of KM's work. KM replied that PHMSA and the DOT provide primary oversight, and KM completes self-reporting. Mr. Bassett then questioned inspections. KM noted that audits are completed periodically, however, most inspections are completed by KM and/or their subcontractors with the results reported to and audited by others.
- Tyson Duve, Kendall Pond Road, questioned whether it were true that KM was looking for the cheapest option; and if cost were not an object where they would propose the project. KM replied that cost was part of the equation, clarifying that this co-located route is not the most cost-effective. KM added that 90% of the proposed route is good, while they continue to work on the remainder. Discussion ensued, and Mr. Duve inquired why KM cannot make sure they get the pipeline inside the right of way. KM replied they are looking at all options; adding that if costs go too high it will kill the project, just as with any infrastructure project. KM advised they do commit to not taking any property if it can be avoided.
- Homer Shannon approached and urged property owners not to negotiate with KM; noting failure to return the land survey requests sends a strong message to FERC. He then noted that the Board should notify KM that they cannot survey on Town land. Discussion ensued, and Mr. Desilets sought clarification regarding Town's prohibiting surveys and taking a formal position. KM noted that if the Town requested their land not be surveyed, it won't be. As to taking a formal position, the Town has no specific authority but they do have a voice. KM clarified that they do not have eminent domain authority; rather the Federal government does and will first have to determine if there is a public interest.
- Rob Ashburn, Misty Meadow Road, approached noting KM had been lax by not having an okay from the power company in place; adding that National Grid had advised at their presentation to the Board (on 2/23) that the pipeline would absolutely not be going in the right of way. Discussion ensued, and KM advised they continued to meet bi-weekly with National Grid and have clearly expressed their wish to be inside the right-of-way; particularly in tight areas such as this. KM reiterated this is a lengthy process and they do not have all the answers at this point.
- Bruce Witte approached urging the Board to participate in the Nashua regional consortium in opposition to the project, and presented a petition signed by seventy-four residents which read as follows: *"We the undersigned, request the WINDHAM Board of Selectmen to draft a non-binding resolution, stating the Board's dissatisfaction [sic] with the Kinder Morgan, NED pipeline proposal under consideration for construction in WINDHAM. Reasons for opposing*

this pipeline include: public safety, environmental issues, disruption of normal life, devaluation of properties and unjust taking of private property for corporate, for-profit purposes. This resolution should be submitted to FERC under docket number PF14-22-000.”

- Laura Marks approached to express concern regarding the frost line; also reiterating the concerns of others regarding no means to quickly evacuate the Autumn/Winter street area. KM reiterated their integrity management program.
- Representative McMahon approached noting there is no benefit to NH from this line; inquiring when a definitive statement of impact to Windham will be available. KM noted when the formal application is filed with FERC, around the September/October time frame, it will represent the definitive route. Discussion ensued.
- Donna Witte approached with concerns regarding LNG conversion facilities citing the Merrimack Valley project as primary providers; noting there is no plan to put any gas in Windham for use by residents. KM noted there was, via Spectra; and a discussion ensued regarding the number of other proposed projects.
- Jane Harrison, Castle Hill Road, approached noting that Bruce Kellerman of WBUR had done a news story regarding capacity issues, shortages on coldest days, and that the LNG system in Everett can address the aforementioned. She questioned whether there was a need in our region; adding there was a regional energy summit upcoming and suggesting the outcome of that should be considered. She also noted that we should be looking at sustainable energy. KM noted there are 46 LNG portable facilities around New England servicing storage facilities, and the problem is there is limited storage. They also noted the impacts of the foreign market, and added that this is a domestic supply of a stable, long-term, and continuous nature.
- Pam Lundquist, Winter Street, approached noting that her child care center will go out of business if the pipeline is installed. She noted she was unsure what impacts it would have to her liability insurance, and cited the lack of evacuation/escape and property devaluation concerns, as well. KM noted that, while they could emphasize with those concerns, in their experience there are many daycares, schools and homes along pipeline routes; adding they had never seen a case where liability insurance could not be obtained as the liability rests with KM. Discussion ensued.
- Ed Green, Canterbury Road, approached noting that Seabrook had also promised lower rates that were unrealized due to overruns that had resulted in mandated costs being passed onto the consumers. He expressed concerns that KM had no connection to NH, and there was no benefit; adding that he would rather the owners have their trees and voicing his support for their petition. KM noted that their function is to sell space along the pipe; and that they do not conduct drilling, etc. They noted their responsibility is to their customers, and that they are capped and any overruns would be their responsibility.
- Judy Armstrong, Karen Road, noted that every resident of Autumn and Winter streets passes by her house; adding that there were only 26 homes on Karen as it related to her house number being 100. She noted that this is not a well-travelled area and the thought of children being stuck at the day care in the event of an incident is terrifying.
- Gary Bennett approached seeking clarification as to Liberty’s signing on as a customer; pointing out that they are owned by Algonquin and questioning whether they had to or wanted to participate. KM replied that Liberty had approached KM as an equity investor and there was no other affiliation between them; adding that the PUC has tremendous authority as it relates to vetting Liberty etal.

- Sandy Johnson, Autumn Street, asked several questions of KM, including when the project had started, their deadline, FERC's authorization, where they would go/what they would do if denied in NH, and whether cost was the basis for their decision. KM indicated the project had begun two years ago, that there was no "deadline", that they plan to file this year with an in-service of 2018, but if the authorization from FERC takes longer it would just be an ongoing process. They also reiterated that they had not been denied in Massachusetts; rather they had looked at all options and made a conscious decision to move a portion of the projects. KM also reiterated that it had cost more to come here and that the co-location was proposed to minimize impacts. They clarified that they had yet to file, and that when they do it will be with a refined plan so that it will be permitted and will include addressing landowner concerns. Bruce Witte approached urging all to take the latter portion of KM's reply into consideration; that once filed it's done.
- Jason Pancoast, Glance Road, approached seeking clarification as to the forty-six homes involved and the taking of and/or impacts to same. KM expressed commitment that no homes will be taken and no wells will be lost; rather they will adjust the path. They explained that the 46 homes are within the 400' study corridor and while they cannot guess how many will be left as being impacted once finalized it will not be all of them. Mr. Pancoast then noted that, while KM does not have eminent domain powers it is they who request it; inquiring whether they would commit to not doing so. KM noted that they are committed to do everything not to utilize eminent domain; adding that it is not automatic and will require petitioning for the right and going to court for same.
- Homer Shannon questioned current/future service, and a discussion ensued regarding line taps and Liberty's evaluation of service in Amherst.

There being no further public input, thanks were extended to all for attending.

Mr. Hohenberger noted that he had always felt the project had no benefit to the community and that, as a Board, the needs of the 46+ homeowners needed to be addressed. He then moved that, based upon all input, the Board of Selectmen go on record that they are opposed to the Kinder Morgan plan as presented, and that Windham's Representatives and Senator Birdsell be asked to join in said opposition, and that staff investigate the possibility of joining with other communities who have formed a consortium in opposition. Mr. Desilets seconded for discussion.

Mr. Desilets then noted that while he supported the Board taking a position, he was not sure whether that evening was the time to do so; noting perhaps by the end of April the Board could determine for or against. Mr. Breton concurred, noting that the Board has yet to even see a full set of plans from KM, and that the environmental studies are not completed. He indicated that he would like to see maps of the "incinerator zone" and wells; adding that he did not feel the Board had the answers/information necessary to make a decision.

Mr. Letizio noted that he remained concerned that the draft plan, as presented, does have impacts; however, he could not support the motion as KM hadn't had a chance to address the concerns raised within a reasonable time frame. He noted he did agree there was no direct benefit to Town, and questioned whether the Board could assist in urging National Grid to allow the project in the right of way.

Mr. McLeod noted that the existing right of way is already maintained and treated as it pertained to lack of vegetation/need for cutting. He indicated that, at this point, we don't know exactly what we're dealing with as there is no definitive data; adding that the Board must also look at regional benefits in addition to the indirect benefit of tax revenue to Windham. He indicated he would like to see the 400' study corridor narrowed to 50'.

Discussion ensued regarding Mr. Hohenberger's motion and whether he wished to withdraw same. He declined, and the motion failed 2-3, with Mr. Letizio, Mr. McLeod and Mr. Breton opposed.

Discussion ensued regarding KM returning, and they indicated there will be additional open houses and FERC scoping meetings. It was noted that KM needs to definitively respond to the concerns raised, and will follow up with Mr. Sullivan. KM advised that the FERC filing will identify the route, but does not end the dialogue with communities.

The public meeting was then closed.

BOARD REORGANIZATION: Mr. Desilets moved to nominate Mr. Letizio as Chairman. Mr. Hohenberger seconded, but advised he did have some concerns regarding Mr. Letizio's use of "Selectman" as it related to School Board and other issues. Mr. Letizio noted that, unfortunately, he could not control what was reported. Motion passed unanimously.

Mr. McLeod moved and Mr. Hohenberger seconded to nominate Mr. Desilets as Vice-Chairman. Passed 4-0-1, with Mr. Desilets abstaining.

NON-PUBLIC SESSION: Mr. Breton moved and Mr. Desilets seconded to enter into nonpublic session in accordance with RSA 91-A:3 II c. Roll call vote all "yes". The topic of discussion was reputations and the Board, Mr. Sullivan, and Ms. Devlin were in attendance.

After a brief discussion relative to Committee attendance, it was determined this was not a non-public matter. The public session was resumed; however there was no further discussion.

Mr. McLeod moved and Mr. Hohenberger seconded to adjourn. Passed unanimously.

Meeting was adjourned at 10:50 PM.

Respectfully submitted,

Wendi Devlin, Administrative Assistant

Note: These minutes are in draft form and have not been submitted to the Board for approval.