

Notes from SEC deliberations on Thursday, 11/29/18 – Day 2

By T. Selig

The Chair called the meeting to order at 9:03 AM. Deliberations concerning aesthetic **evaluation** continued from where the committee left off yesterday, 11/28/18.

- Old Coast Road in Newington – There did not appear to be concern by the committee.
- Newington side of the Little Bay – Transition concrete matting along shoreline. Dye in concrete will make less visible. Plantings will soften impact. Not unreasonable adverse impact.

The committee moved on and discussed the recommendation of the Counsel for the Public's expert, Michael Lawrence, recommendation #32 (CFP Exhibit 193), that the applicant shall develop vegetation planting plans for the 13 locations identified by Counsel for the Public's expert (Lawrence) to mitigate potential visual effects from the project. Those location include...

1. Fox Point Road Crossing,
2. Durham Point Road Crossing,
3. Sandy Brook Drive (east),
4. Sandy Brook Drive (west),
5. Ffrost Drive Crossing,
6. Cutts Road Crossing,
7. NH Route 108 Crossing,
8. Mill Road Crossing,
9. UNH-Gregg Hall Vicinity,
10. UNH-Main St. Overpass,
11. UNH-Gable Apartment Complex,
12. UNH-Gables North parking,
13. NH Route 4 Crossing

Counsel for Public recommended the applicant work in good faith with the underlying landowners at each of these 13 locations to reach agreement on the vegetation planting plans that do not interfere with the safe operation and maintenance of the new line. The applicant will have to provide the planting plans to Michael Lawrence for review and comment prior to finalizing the planting plans at each location. The underlying property owners shall have final approval authority for any plantings proposed on their property.

Committee members outlined a concern that private landowners should not have the ability to force the applicant to do more than is appropriate, and that the landowners could simply

refuse what the applicant proposes. Disputes should come through the formal SEC appeal process.

It was suggested by committee members to add the Newington side of Little Bay, the Durham side of Little Bay (Getchell property now owned by Eversource), and the Frink Farm to the list of 13 sites mentioned above. Must review the landscaping plan by the NH Division of Historic Resources if there are historic resources involved with any of the above sites.

There was a 10 min. break during which SEC Attorney Iacopino, Counsel for Public, and Eversource discussed language for conditions of approval per request of SEC.

Chair Weathersby suggests adding Nimble Hill Road in Newington as well to the list above that should be commented on by Mr. Lawrence. There was consensus to add Nimble Hill Road to the list.

Chair Weathersby suggests adding condition #33, that the applicant shall work with all landowners along the project route who will be affected by tree trimming, tree clearing, or from the construction of taller structures in the ROW to develop vegetation planting plans that do not interfere with the safe operation and maintenance of the new line. "The applicant shall work in good faith with all of the affected landowners to reach agreement on vegetation planting plans. In the event a dispute arises as to the applicant's compliance with this condition, the applicant and/or landowner may submit a claim for resolution as part of the mitigation and dispute resolution process."

Member Fitzgerald stated that Newington would like the entire line underground. He assumes this was because the Newington Master Plan was concerned about aesthetics. "Where do we take this up?" Fitzgerald asked. Weathersby suggests discussing now. Member Duprey indicated that Pickering Farm did not want the line underground there and at Nimble Hill Road there was already a decision that the view was not adverse so she asked why the SEC was revisiting again? There was discussion concerning whether requiring the entire project to be underground would be considered a separate project or an amendment to this application. The committee discussed that Durham's request for underground (HDD) and putting the entire line underground in Durham should also be discussed. Duprey requested a break with the committee's legal counsel to discuss further if requiring additional elements of the project to be underground is of interest to the committee. Chair Weathersby stated, "Why require burying in Newington if not also in Durham?" "Why should Durham residents be impacted" and not Newington? Weathersby indicated that although she would prefer burying the line, that burying it is not before the committee. **Weathersby says that she infers from the conversation that the Committee is not inclined to require burying the line in either Newington or Durham as part of visual/aesthetic mitigation. There was agreement by the Committee.**

Since key viewing points had been considered, the committee moved on to consider the overall impacts on aesthetics of the project.

**The Committee unanimously voted after reviewing the seven criteria that the project will not have an overall unreasonable adverse effect on aesthetics.**

**Historic Resources.** Member Muzzey led a discussion on whether the project will have an adverse unreasonable effect on historic resources. There was discussion regarding stipulated facts between Counsel for Public and applicant. The MOU between Eversource and Durham for impacts to roads and historic properties was discussed (unanticipated discoveries, protection of stone walls, ground penetrating radar at Samuel Hill Burial Site, expanding granite quarry sensitive area to include quarryman's bench, timber matting on Class 6 roads, etc.). There is a MOU with Newington but this does not include historic properties. Member Muzzey discusses MOU and MOA with NHDHR and Army Corps regarding historic resources.

There was considerable overview by Member Muzzey followed by Q & A from the Committee on all aspects of historic/archeological resources. Ultimately a list of impacted properties was referenced that was reviewed by NHDHR and the US Army Corps of Engineers as part of the application review process. The Adams Homestead on Nimble Hill Road in Newington was used as an example to discuss adverse effects criteria and ratings/recommendations/findings by the professional reviewer. Muzzey walked the committee through the sites evaluated by NHDHR and US Army Corps.

— Break for lunch 11:58 AM --

At 1:02 PM, the Committee resumed discussions. Before lunch, the Committee looked at above ground historic resources. At this point, the group transitioned to discussion on below ground archeological resources.

There was reference to Dr. Victoria Bunker's testimony, and her Exhibits 18, 77, and 144. Discussion of a Phase 1A analysis, areas of sensitivity, and areas of disturbance. This was completed for the entire width of the corridor. The review agencies did not request investigation outside the corridor area except for laydown yards, access roads, etc. There was discussion on Phase 1B surveys for potential archeological sites. These reports had been submitted to NHDHR and Army Corps. Many are sealed for confidentiality purposes. Phase 2 would have included shovel test pits where deemed appropriate to see whether intact archeological sites exist. A Phase 3 investigation would only follow for a site where important artifacts remain. Reference and some discussion concerning Dr. Bunker's review of Durham Historic Association list of concerns. In one instance, although Dr. Bunker had not recommended that further review be undertaken by the applicant on the potential

Samuel Hill burial site near the Field House along Main Street in Durham, the applicant ultimately did agree to undertake ground penetrating radar based on Durham's direct negotiations with the applicant as part of the MOU between Durham and Eversource. Member Muzzey specifically mentioned her appreciation to the Durham Historic Association's efforts to protect burial grounds. There was discussion of the LaRoche cellar hole site.

Various historic resources covered in the MOU/MOA's between applicant and NHDHR and Army Corps. discussed further along with Q & A. Would the required historic mitigation pamphlet/booklet in Newington be value added? Committee member Way was skeptical. Considerable discussion about the booklet ensued. Could money be contributed to Newington Historic District or Association instead? The requirement is due to impacts to the Alfred Pickering farm, and the Pickerings wanted all mitigation dollars to go to the Newington Historic District. After more than 90 minutes of discussion, the committee decided that it wanted to see mitigation beyond the pamphlet. Member Way suggested \$20,000 as a payment to the ... TOWN OF DURHAM! They quickly realized their error and apologized for the confusion in that Newington would be the intended recipient.

— the committee took a break for 10 minutes to think about this at 2:40 PM — (During the break, Mr. Selig offered the following language handwritten on a sheet of paper to SEC Admin. Pamela Monroe to assist the committee in their deliberations, which were stuck, as follows: *"In consideration of historic impacts to the Alfred Pickering Farm, the applicant shall make a one time payment in the amount of \$\_\_\_\_\_ to the Town of Newington for the purpose of education, promotion, and support of the Newington Historic District, such funds to be administered by the Newington Board of Selectpersons."* Monroe could not accept the suggestion.)

**The committee decided to require a \$20,000 payment to the Town of Newington for historic mitigation to the Alfred Pickering farm.**

Member Muzzey continued discussion of stipulations of the MOU/MOA's, mentioning various historic sites. **The Durham-Eversource MOU was discussed and the various historic mitigation measures listed therein** (see below) were discussed as follows and read aloud:

- Eversource shall take all appropriate and necessary steps to avoid and/or minimize impacts to historic resources in the Town of Durham. Of particular concern are historic stonewalls and cellars that cross the Easement. Eversource shall monitor work adjacent to historic stone walls and cellars as an additional means of avoiding and/or minimizing impacts to said resources during construction. In addition, Eversource shall comply with the final Historic Properties Monitoring Plan, Unanticipated Discovery Plan,

Historic Properties Training Plan, and Curation and Repatriation Plan agreed upon with the New Hampshire Division of Historical Resources.

- In the event that new information or evidence of historic sites, archeological sites, or other archeological resources is found within the direct area of potential effect of the Project in Durham, Eversource shall report said findings to the NHSEC, NHDHR and provide the Town of Durham and the Durham Historic Association (“DHA”) with notice that a report has been filed.
- In the event that changes in construction plans of the Project affect any archeological resources, historic sites, or other cultural resources, Eversource shall notify the NHSEC, NHDHR and the Town of Durham of any such change.
- Eversource shall take all necessary and appropriate steps to protect the following historic resources in Durham: (1) the **stone walls** listed in Mark Doperalski’s letter to the Durham Historic Association dated May 17, 2018 **shall be protected and walls situated in wetlands in Durham shall be protected by timber mats**; (2) Impacts to other historic **stone walls** or boundary stone walls within the right-of-way or along access roads **shall be avoided through the implementation of one or more of the following measures** to include: (a) not traversing the wall, (b) traversing the wall through an existing breach, (c) traversing the wall using timber matting to temporarily bridge over the wall, or (d) placing the work pad on top of timber matting to elevate the work pad above the wall; (3) **Eversource shall conduct a ground penetrating radar survey of the Samuel Hill family burial site** described in the 1913 town history to avoid digging up the 18th century graves by the Field House from Main Street to Station 82+00 within the right-of-way and the Applicant shall comply with all requirements of the Unanticipated Discovery Plan, Appendix C to the Memorandum of Understanding Between New Hampshire State Preservation Officer and Eversource Energy; (4) **the “Quarry Sensitive Area” boundary shall be expanded** west by approximately 150 feet on Environmental Map 15 of 21 **to include the Quarrymen’s granite slab bench** near the top of the steep quarry cut, and the bench shall be flagged prior to construction to ensure that the bench is protected; (5) the Applicant shall also **use timber matting on the Class VI portion of Beech Hill road and protect historic stonewalls and wetlands**; and (6) on Foss Farm Road, **the Applicant shall use timber matting from Stevens Way to the UNH Gate** to avoid impacts to the Class VI Road, shall undertake only tree-limbing, and shall protect historic stonewalls and wetlands.

Member Dupuis mentioned the Durham Historic Association brief and indicated it was very well done and she appreciate it although the committee may not have addressed everything the way the DHA had wanted. Chair Weathersby mentioned a few items. **Chair**

**Weathersby indicated she has a lot of faith in Dr. Bunker's analysis.** Member Fitzgerald mentioned that Dr. Bunker's testimony was very thorough and convincing. Member Muzzey mentioned the "rather long list" of stone walls that the DHA had submitted.

**There was discussion about developing a stone features protection protocol, similar to what Durham had negotiated with Eversource, for the entire project corridor/ROW.** The Durham MOU was the general model for the protection of stone walls throughout the SRP project as a whole. Iacopino suggested the following, generally transcribed by Selig quickly as follows: *"The applicant shall develop and comply with a protocol to protect stone wall features subject to NHDHR's review and approval for project construction, maintenance, and decommissioning."* Dupuis did not want to add on to the requirements for the applicant. This was ultimately adopted by the committee by consensus, although the wording is not exact.

There was continued discussion on historic issues. **Some committee members felt the historic expert from the Counsel for the Public (Mrs. O'Donnell) was too broad in her interpretations.** Muzzey mentioned that if there were relevant historic resources, the applicant's review of historic resources would have captured them. Duprey commented on the strength of the applicant's historic expert. Muzzey stated that the applicant's expert did in fact follow the guidelines that the NHDHR has established for locating and identifying historic resources.

Chair Weathersby notes the Durham Historic Association's allegation that the Google Earth image had been doctored or altered to show an inaccurate number of lines making the image look more intense versus what is actually there. (See DHA Brief, paper page 23.) Duprey indicates she sees the process has caused some distress in Durham and can understand why some people might feel the applicant doctored the image, but there are so many images, she cannot imagine why the applicant would doctor it. Other committee members said they would need real evidence and there was none. They referred to the company's explanation. **Chair Weathersby indicated the committee did not agree with the Durham Historic Association that the applicant had doctored an image to distort impacts of the project in Durham.**

After discussion, **the committee rejected Durham Historic Association's request for an independent monitor of the project regarding the protection of historic resources.**

**The Committee unanimously voted the project will not have an overall unreasonable adverse effect on historic sites.**

**Air quality.** Member Fitzgerald led a discussion on whether the project will have an adverse unreasonable effect on air quality.

**The Committee unanimously voted the project will not have an overall unreasonable adverse effect on air quality.**

Water quality will be the next subject to be deliberated Monday, 12/3/18, at 1 PM.

The meeting adjourned at 4:50 PM.

Todd