

Approved March 18, 2014

TOWN OF CORNWALL
SELECT BOARD SPECIAL MEETING
Cornwall Town Office
Thursday, February 27, 2014

Present: Abi Sessions, Ben Wood, Dave Sears, Judy Watts, Sue Johnson
Guests: Louise Porter, Public Service Department; Benjamin Marks; Judy Werner; Bethany B. Menkart; Jean Terwilliger; Geoff Demong; Bob Burton; Marion Burton; Janet Warren; William Warren; Jim Porter; Julia Michel; Sue Burdick; Charles Burdick; Judy English; Liam English; Brian Kemp; Amy Quesnel; Liz Marino; James Duclos; Raph Worrick; Meg Harris; Jack Carter; Bobbie Carnwath; Jason Kaye; Randy Martin; Mary Martin; Holly Noordsy; Peter Demong; Jim Dumont; Colin Kriwox; Stanley Grzyb; Rick Greene; Alisa Breau

Meeting called to order at 7:00pm

MINUTES

February 18 – Dave MOVED/ Ben SECONDED a motion to approve the minutes as distributed. Motion passed.

MEETING WITH LOUISE PORTER, PUBLIC SERVICE DEPARTMENT

Louise Porter, Special Counsel with the Public Advocacy Division of the Vermont Public Service Department is required by statute to be here tonight because Cornwall is one of the towns directly impacted by the petition of Vermont Gas Systems, Inc. for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing the construction of Phase 2 of the "Addison Natural Gas Project". This petition is Docket # 8180 in the list of matters currently being considered by the Vermont Public Service Board.

Ms. Porter will answer questions from the public as well as the following questions provided to her ahead of time by the Cornwall Select Board:

1. Specific to Phase 2, what factors will DPS use in determining its position as to whether the proposed project is "in the public good?"
2. What weight is given to each of those factors?
3. What metric is used for each weighted factor and how (and by whom) is that measured?
4. How does DPS incorporate citizen input? How are the different forms and sources of citizen input assessed (e.g. compare a signed letter form a taxpayer/resident in a directly affected community with a letter from a resident of a community with no direct connection): Explain how DPS

officials incorporate directly observed citizen input (e.g. Chris Recchia & Louise Porter at Cornwall forum) into the “public good” decision process.

5. What resource do municipalities or citizens have if they believe or have evidence that the decision – or the facts upon which the decision is based – is incorrect?

Introduction - Louise Porter explained the difference between the Vermont Public Service Board (the quasi-judicial or decision-making authority in utility regulation cases) and the Vermont Department of Public Service (an agency within the executive branch of Vermont state government charged with representing the public interest in matters regarding energy, telecommunications, water and wastewater. By statute, the PSD is required to formally intervene as the public advocate in utility cases before the PSB, federal regulatory agencies, and state and federal courts.

Louise Porter: Some people say that the PSD only represents the rate-payers, but this is only partially true. In transmission projects like this, the PSD has a more complex role, and is charge with looking out for people along the transmission path, not just rate-payers.

Judy English: What do you mean by “look out for”?

Louise Porter: By statute, DPS has to participate in utility cases to represent the public. To answer the first three questions you sent ahead of time, we have a long laundry list of criteria to meet the conditions for an application being deemed as being in the public good. We have experts (for example energy policy and economics experts) on staff and can also hire outside experts. No one criteria is given more weight than the others.

Liam English: Are you representing us?

Chuck Burdick: How is it that you advocate for the citizens of Cornwall?

Louise Porter: We don’t represent you as the Town or you as individuals but collectively you as the public. The Town of Cornwall is being represented in these proceedings by Ben Marks, who is very knowledgeable of the 248 Certificate of Public Good (CPG) process. Individual citizens can intervene with or without counsel, and it is recommended that that they do have counsel, who understand how the CPG process works.

Chuck Burdick: So you will pay attention to what we say and work that into the advocacy?

Louise Porter: Yes, we will listen carefully and often use public input as conditions that are attached to any recommendation we make for granting the petition.

Mary Martin: I would ask that the PSD not recommend the petition be granted at all.

Louise Porter: Duly noted.

Bill Warren: What constitutes the public? What is the scope?

Louise Porter: Many people are concerned about fracking in Alberta. We too are concerned beyond our borders, but our role as interveners in this docket is the public in Vermont.

Bill Warren: Is the PSD concerned with economic well being of IP?

Louise Porter: No, the economic interests of IP do not factor in the criteria for approval.

Bobbie Carnwath: Is the PSD advocating for Rutland in Phase 2?

Louise Porter: Public good is the good of the entire state. Vermont Gas Systems arguments about the benefits to Rutland would be something to consider.

Mary Martin: Rutland should have nothing to do with Phase 2, in my opinion.

Louise Porter: People look at it in different ways.

Mary Martin: In Phase 1 hearings the Public Service Board made it very clear board that they were not looking beyond Phase 1, that evidence beyond Phase 1 would not be considered. Will the PSD do the same for Phase 2?

Louise Porter: The Department is always ready to listen and to be persuaded. Rutland has an interest in this docket. We are interested in the area from Middlebury to the middle of the lake.

Stan Grzyb: Is the Department the more interested in ratepayers for Vermont Gas Systems or in the towns affected?

Louise Porter: None trumps the other.

Stan Grzyb: Seems like the towns affected are getting the short end of the stick compared to the corporations and the governor's office.

Louise Porter: We look at the interests of the towns quite seriously.

Stan Grzyb: Part of our Addison County Regional Plan regional states that there shall be no new transmission line where one does not exist.

Louise Porter: I don't know what you are referring to specifically. I will need to look at the document, before I can respond to that.

Abi Sessions: You said that the Department's role is not driven by what Rutland wants. Yet that is the whole rationale for CPG put forth by Vermont Gas Systems. If you are not driven by what Rutland wants, then you are compelled to oppose Phase 2, because it is all about what Rutland wants.

Mary Martin: The argument is that it gets gas to Rutland 15 years sooner.

Holly Noordsy: In the Phase 2 filing, Vermont Gas Systems itself does not guarantee they will go to Rutland.

Geoff Demong: Let's be honest about why the pipe is going through Cornwall. It will go to IP. That's it. Why does Phase 2 get the gas line closer to Rutland?

Several People in Unison: Money.

Louise Porter: Phase 2 takes would also take the pipeline deeper into Middlebury towards Rutland.

Geoff Demong: If Phase 2 fails, will Vermont Gas go through with Phase 1? The money is connected.

Louise Porter: From everything I have read, the funding for Phase 1 would be enhanced with money from IP. I never heard Vermont Gas Systems say they would not do it, without that funding.

Randy Martin: The proposed transmission line goes through my property. As a property owner I have been violated, my land trespassed upon and I am sick about it. (Mr. Martin also provided Ms. Porter with copies of documents with more details on his experience with Vermont Gas Systems and subcontractors.)

Liam English: For many years IP financial position has been shaky. What role do you play in examining the books of IP?

Louise Porter: We have no jurisdiction over end users.

Liam English: Well this is public information you need to examine. It could be an important factor in your decision to recommend Phase 2 or not.

Louise Porter: Yes, we could.

Liam English: You need to. Please write it down.

Louise Porter: Thank you, I am. It could be a factor.

Rick Greene: When Phase 2 is servicing an out-of-state entity, how is that considered a public good for Vermont? I don't get. None of us do. The PSB should determine what is in the public good for Vermont.

Louise Porter: I agree with you that IP is supposed to be the largest end user. The Department would need to look at the filing to see what are the other claimed benefits for Vermont.

Rick Greene: If IP were on the Vermont side of the lake, this would be a very different conversation. Having this mega user in New York makes this whole process very difficult for us to understand.

Bethany Menkart: IP closed 4 plants in 2012 and more in 2013. They have outsourced their paper production to other countries. Why don't they get gas in New York instead of using Vermont as a pass-through?

Stan Grzyb: – The Adirondack Park will not allow a pipeline to be constructed through the Park. We feel our property is worth as much to us as the Park is worth to New York.

Brian Kemp: Our land is as valuable as the Adirondack Park. If it can't go through that, why should it go through our property? It's not right. I live just down the road, along the proposed distribution line but I don't think I will take the cheaper gas.

Bob Burton: If IP had not put up 70 million would we be here tonight? If we could sell something else for 70 million, we could go right to Rutland. Let's sell Mount Mansfield, or another Vermont mountain. There is no benefit to Cornwall in this project.

Ben Marks: I think what Bob is saying here is that this is a financing scheme to build a pipeline. Will the Department be looking at alternate financing to get to Rutland?

Bob Burton: What about eminent domain? How can that happen if there is no public good?

Holly Noordsy: As you can tell, a lot of us have strong feelings about this issue. I wonder how people can be heard by the Department beyond this meeting. What information matters to the Department? Really, who represents us?

Judy Watts: Thank you, Holly, that is question #4 on the list.

Louise Porter: Your attorney Ben Marks is representing Cornwall's particular interests. As far as the Department is concerned, everyone will be heard. The Consumer Affairs Division of the DPS will keep track of the number and the content of every email, phone call and letter it receives about this case.

Rick Greene: Are some parties going to have a greater advantage on the day of the public hearing?

Louise Porter: Only those who have joined as formal parties will be heard for the formal hearings.

Mary Martin: Who can intervene?

Louise Porter: Anyone can intervene, but parties do have to state an interest that is not being represented by other interveners. For more information, see the Citizen's Guide to the Vermont Public Service Board's 248 Process is available on the PSB website <http://psb.vermont.gov/forconsumersandthepublic>.

Bill Warren: How does the Department take into consideration the comprehensive energy plan? How does this project get us there?

Louise Porter: We do consider Vermont's Comprehensive Energy Plan, which does make mention of natural gas.

Chuck Burdick: Would you consider the environmental violation record of IP?

Louise Porter: The Department has no control over that.

Randy Martin: Their environmental violation record has to do with paper processing.

Janet Warren: I would give IP a certificate of public bad and impose conditions.

Louise Porter: We have no authority to impose conditions on an end user.

Janet Warren: Can we suggest conditions for Vermont Gas?

Louise Porter: Yes, certainly. Our recommendation for Phase 1 included many conditions informed by the public interest.

Holly Noordsy: How are conditions enforced?

Louise Porter: The enforcement arm is the Public Service Board. Additionally, the Department interacts with the utilities all the time.

Colin Kriwox: The price of natural gas has fluctuated. Are you reevaluating the benefits of gas based on current data on price?

Louise Porter: Yes, we use the most up-to-date data.

Liam English: Did you look at the price of gas as a snapshot or as a trend?

Louise Porter: We look at trends.

Alisa Breau: Vermont Gas said they would bring natural gas to low-income homes. Has anyone even looked to see if that is cost prohibitive or not?

Louise Porter: In Phase 1, we did insist that if they got the CPG that they be required to do energy efficiency audits and provide financing opportunities to make conversion more affordable.

Jean Terwilliger: What is time frame in number of years for what is considered public good? 20 years down the road, this looks like a bad project.

Louise Porter: We do consider the long-range impacts in any of the criteria.

Judy Watts: Let's give the citizens a break for a minute and hear from the Select Board.

Dave Sears: I was born in Cornwall and have lived here all my life. From everything I have seen about this process, the people and the towns affected do not have equal weight. The 248 process is weighted heavily to government and corporations. At Vermont Gas, they do what they want when they want. Whenever I ask Vermont Gas the "Dave Sears question" about property values when a new pipeline comes through, they refuse to answer. I want to know - what financial remuneration is given to landowners? The Town will get a 1-cent tax reduction on property tax, in the first year, and then it goes down after that. Also, I can tell you that there are not 60 properties that could be served by the proposed distribution in Cornwall. Vermont Gas just fabricates information to make themselves look good. I doubt that much of what is heard tonight will make it to the formal hearings. What is tonight going to accomplish? Can you guarantee that our concerns will be at the top of the agenda?

Ben Wood: In the beginning when Eileen Simollares was here, we asked what is the benefit for Cornwall. At that point, Vermont Gas said there would be no distribution, just a pass through. Later, they said, well we can serve some homes. If the pipeline were not going to IP, then Vermont Gas would not be running a pipeline through Cornwall.

Abi Sessions: I would like to know, what percentage of the time has the Department said no to a 248 application.

Louise Porter: I do not know, historically.

Abi Sessions: In your experience, then, has the Department ever said no.

Louise Porter: I cannot think of one instance. But conditions can be pretty big.

Dave Sears: My problem with all this is that there is a slim chance that it will be a "no" on Phase 2, especially since Phase 1 has been approved. But landowners and Towns need appropriate financial remuneration. I would like to Department to step in. What is happening now, for example, in Monkton, is not fair.

Meg Harris: How many people are in the Department?

Louise Porter: 40-60 employees.

Meg Harris: Whom should we be contacting?

Louise Porter: You can contact me.

Judy English: What are you actually going to do?

Louise Porter: I will share your concerns and information with the Commissioner, and with Department staff. Cornwall forms a piece of the public in regard to the public good.

Liam English: Early in this process, I had conversation with Eileen Simollardes. Said she was sorry there were going to be people that would get hurt, but that this was a very good project.

Mary Martin: You work for the Governor?

Louise Porter: We are part of the executive branch.

Randy Martin: We know that Vermont Gas intends to pursue eminent domain in Cornwall and Shoreham, just like they are doing in Monkton. Who do you represent here? Vermont Gas ratepayers? Do you want to see the landowners get just compensation?

Louise Porter: DPS does participate as the public advocate in condemnation proceedings by statute.

Rick Greene: If you accept that we will need to use fossil fuels into the future, then you might agree that we would need to run a pipeline down the Route 7 corridor, but I don't understand running a dog-leg to a single customer. I am worried about how often you say yes.

Louise Porter: We consider each case on its own merit.

Colin Kriwox: But what weight do you give to the criteria you are considering?

Louise Porter: There is no weight.

Colin Kriwox: IP has about 600 employees, including less than 10 who live in Vermont. For Cornwall, there is virtually no tax benefit, not close to 60 homes potentially served, and the financial benefit goes to Rutland. How are these criteria weighted?

Alisa Breau: Vermont takes pride in its environmental record. We have outlawed fracking. This pipeline is an environmental disaster. This is going to be a huge disincentive for young families to move here, and we need more young families.

Stan Grzyb: Let's look at some facts. According to Vermont Gas statistics, 99.6% of the gas that would pass through Cornwall 2 pastures from here, will be going to IP. According to Vermont Gas statistics, 93% of homes in Cornwall can never benefit from Phase 2. Our tax rate would decrease by 1 cent the first year, then it goes down after that. The project is potentially a major detriment to the Town of Cornwall. And by the way, Don Gilbert, Vermont Gas COE, said in March 2011 "We won't come if people don't want us."

Raph Worrick: – Phase 2 is remarkably different from the other ones. Phase 2 is not a public works project. IP will save money and Vermont Gas will have revenue. That's it. The claim that it will have no negative effect on Cornwall is false. If you are going to force this on me, I want a lot of money and the Town should get a lot of money. Otherwise it is a joke.

Ben Marks: I am happy to spend time with anyone here, who wants to talk about the Town strategy in the 248 process. I can also be a conduit between Louise and Cornwall residents, if they want. I will be representing the Town collectively. I am always happy to discuss the positions that the Town is taking with anyone. I would like to acknowledge that this issue has taken over people's lives here in Cornwall for well over two years. Many people in Cornwall, including those in this room, have spent a tremendous amount of time and energy on this issue.

In recent developments in the 248 process, the Public Service Board ruled against a motion made by Jim Dumont, representing VPIRG. The motion was made on the grounds that the pipeline is under the jurisdiction of the Federal Energy Regulatory Commission — not the Vermont Public Service Board — because the pipeline would cross state lines. The PSB ruled against that motion, so the state process will proceed.

Dave MOVED/ Abi SECONDED motion to adjourn the meeting. Motion passed.

The meeting was adjourned 8:48pm.

Sharon Tierra, Clerk of the Select Board