

**MINUTES OF THE
HVCEO
MEETING OF MARCH 26, 1999
AT BROOKFIELD, CT TOWN HALL**

MEMBERS IN ATTENDANCE

Brookfield First Selectman Bonnie Smith
New Fairfield First Selectman Patricia Gay
Sherman First Selectman Donna Tuck

OTHERS IN ATTENDANCE

State Representatives Jeanne Garvey, Mary Anne Carson and David Scribner, Paul Corey and Cat Nguyen of DPUC, from CL&P George Breitwieser, William Smagula and Robert Gates, Harris Kretsge and Wally Choi of J.P. Morgan Securities, Lynn Waller of Danbury, from the Candlewood Lake Authority Bruce Lockhart, Harold Mayer and Larry Marsicano.

Also Elaine LaBella of the Housatonic Valley Association, Fred Benedikt of Southbury, Dan Knaak, Norman Schmid, Fred Standt, various other citizens, Janet Hopkins of the Sherman Sentinel, Cheryl Reedy of Congressman Maloney's Office, Attorneys Ted Backer and Dan Casagrande of Pinney, Payne et al, and Jonathan Chew of the HVCEO staff.

CALL TO ORDER

The meeting was called to order by Brookfield First Selectman Bonnie Smith at 9:30 A. M.

PUBLIC COMMENT

Public comment was received from Fred Benedikt, Lynn Waller, Dan Knaak, Norman Schmid, Larry Marsicano and Bruce Lockhart.

In his comments Fred Benedikt urged that the CL&P sales contract be examined to determine if municipal interests are compromised, and if so that the sale be challenged until issues can be addressed by the FERC relicensing. Also, that the original state legislation empowering CL&P to create Candlewood Lake be checked to determine intent, as this may help us now.

He urged that all involved parties immediately become intervenors with the Federal Energy Regulatory Commission for relicensing and license transfer, by writing with reasons for involvement to Mr. David Boegers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426 (include eight copies).

Citizen Lynn Waller of Danbury urged that the U.S. Army Corps of Engineers be invited into the process as it is a federal agency with sufficient power to prevent any major changes to the Lake. Also, that if the easement cannot be negotiated at a reasonable cost now, plan to pursue the same negotiations with the new owner after the sale. Under that circumstance, she suggests, there will be no DPUC intervention or J. P. Morgan fees, and the new company may be very willing to cooperate as it is just entering a long term relationship with the five communities. There will also be more time to find the funds to purchase the easement, she said.

Attorney Ted Backer responded to comments by citizen Dan Knaak that the five local wetlands and watercourses commissions will not have jurisdiction on issues of Lake level changes or draining. The reason is that in Connecticut, DEP has jurisdiction over dams and their related water levels, and thus the texts of local wetlands ordinances all exclude this specific item due to state preemption.

LEGISLATIVE REPORT

Representative Jeanne Garvey informed members of a meeting held this week in the Governors Office on Candlewood Lake issues. In attendance with her were Representatives Mary Ann Carson, David Scribner, Lewis Wallace and Mark Boughton, along with Paul Corey of DPUC, David Leff of DEP, House attorneys and Sid Holbrook of the Governors staff.

Representative Garvey recommends that HVCEO utilize its intervenor status at DPUC to request that the approximately \$100,000 conservation easement development cost be administratively declared a "stranded cost", thus allowing eventual municipal reimbursement. DPUC has the authority to make this type of determination administratively, she said.

Also that on a parallel track, legislators will seek to reopen the electric utility deregulation act to insure that these unanticipated costs are reimbursed, by redefining the definition of stranded costs legislatively.

ATTORNEY'S REPORT

Attorneys Dan Casagrande and Ted Backer reported on their meeting with the Chief Licensing Counsel at FERC in Washington. That official stated that the conservation easement as drafted was acceptable except for minor wording refinements.

In order to meet the current DPUC deadline of 4/1/1999, they are recommending in unison with DPUC and J. P. Morgan that the signatures of the five chief elected officials be placed on the agreement by 4/1/1999, but clearly and fully conditioned by wording stating that the agreement is in no way binding until all municipal approvals are obtained. CL&P will sign without any such contingency.

This compromise approach balances the need for J.P. Morgan to notify bidders shortly of what they can expect with the relatively slow municipal approval process. It also recognizes that completion of the appraisal will take time. The attorneys recommended that municipal counsels review the text of the contingency language to be received.

Ted Backer reported that the near final wording of the easement had also been forwarded for review to a title company to insure there is no prior restriction conflicting with it. The final draft will be forwarded to the five chief elected officials for review early next week, comments to be forwarded back to Pinney, Payne, this to be followed by signing of the heavily conditioned conservation easement by 4/1/1999.

Ted Backer reported that the draft easement had also been forwarded for review to David Leff of CT DEP. As for making DEP a party to the agreement, adding a sixth signature line and then expecting a one sixth share of the cost of the easement to be borne by the state, this course of action raises far more obstacles than it solves, he stated.

Legal research reveals that as long as the easement wording indicates the state is intended to be a beneficiary of the restriction, then it is prudent to leave the state out of the signing process, which would take many months and thus cause this current effort to fail.

DPUC staff advised and it was agreed that pursuit of the beach purchase agreements will need a time extension from DPUC. Each municipality involved with pursue this extension individually.

How to present the easement to municipal legislative bodies for approval was then discussed. The attorneys recommend that this be done by a simple yes or no vote. If amendments as to water levels, etc. were made by each municipality then the entire process would be nullified, they said. Municipal attorneys should also be consulted on this procedure.

AUTHORIZATION FOR ACTIONS

Members then discussed the next steps in the process. They agreed unanimously to pursue the following actions:

--- Attorneys T. Backer and D. Casagrande are authorized to expend time to request DPUC to declare the costs of conservation easement development and purchase to be stranded costs, thus enabling municipal reimbursement.

--- Legislators Garvey, Carson, Scribner and others are urged to introduce legislation that will enable conservation easement development and purchase costs to be recovered as stranded costs, to complement the approach above.

---Vice Chair Arthur Peitler is requested to write to CT OPM on behalf of the group to seek reimbursement of these same costs through resources available to OPM, again to complement the other approaches.

---HVCEO, the five municipalities, the three lake authorities, and other interested parties are all urged to apply for intervenor status in the upcoming FERC hydro project license transfer and relicensing process.

--- Municipal 20% cost sharing for development of the conservation easement should date from the point where legal research activity actually began. This is 12/11/1998 rather than 1/8/1999 as indicated earlier.

ADJOURNMENT

The meeting was then adjourned at 11: 1 5 A. M.