



# Franklin Regional Council of Governments

## Regional Pipeline Advisory Committee — Meeting Notes

Minutes	
Date:	October 13, 2015
Time:	3:30 PM
Location:	JWO Transit Center, 12 Olive St., Greenfield, MA
Duration:	1.5 hours
Facilitator:	Linda Dunlavy, Executive Director

Attendees:

- Tom Miner, Franklin Regional Planning Board
- Joe Strzegowski, Town of Conway
- Meg Burch, Town of Conway
- Bill Perlman, FRCOG Executive Committee
- Tracy Rogers, Town of Northfield
- Carolyn Shores Ness, Town of Deerfield
- Ariel Elan, Town of Montague
- Joe Judd, Town of Shelburne
- Polly Ryan, Town of Plainfield

Guests:

- Katy Eiseman, PLAN-NE
- Chris Myers, Town of Shelburne
- Deborah Andrew, Shelburne Ad Hoc PLC

Staff:

- Linda Dunlavy, Executive Director
- Peggy Sloan, Planning Director
- Patricia A. Smith, Senior Land Use Planner

**1. Introductions and Review of September 1, 2015 Meeting Notes: L. Dunlavy**

L. Dunlavy called the meeting to order at 3:30 PM and initiated introductions. Members of the committee reviewed the minutes of September 1, 2015. It was suggested that “AECOM” be identified in #4 as a consultant assisting Kinder Morgan in collecting information regarding environmental resources. The Meeting Notes were accepted as amended.

**2. Review and Discussion of Pending KM-TGP Application & Intervenor Status Request: L. Dunlavy, P. Sloan, and Committee Members**

P. Sloan reported that the FRCOG sent an estimate to AECOM outlining the costs of preparing mapping and data of environmental resources using MassGIS publically available information. FRCOG has not heard back from AECOM and will not do the work until they have a check in hand and approval from towns to prepare the mapping and data from public sources. AECOM is a consultant to KM-TGP.

A question was raised by J. Strzegowski about the FERC process and whether they ask for specific information. P. Sloan responded that two attorneys have advised us that it is very important to raise issues and concerns as soon as possible and before the DEIS is finalized. FERC may not address issues in the DEIS unless they receive information about the concerns from towns or other agencies. FRCOG can prepare GIS mapping to reflect changes in the siting of the pipeline and new information on above ground facilities, but we need additional resources for staff to do so.

T. Miner noted that we know that FERC is seeking additional information, as we have all been copied on their recent request for additional information from Kinder Morgan (dated Oct. 8, 2015) based in part on the concerns submitted by FRCOG and towns.

B. Perlman stated that we can't be sure that FERC will ask all of the necessary questions without our input. Others noted that this is why the list of Study and Information Requests was developed and filed with FERC by the FRCOG in coordination with other RPAs.

M. Burch asked if we should send a letter back to AECOM and Kinder Morgan indicating that they have not yet provided a response to our reply to their mapping request, with a copy to FERC so that it is clear that they have not been responsive.

KM-TGP information provided to FERC may omit information that does not support its pipeline proposal.

K. Eiseman stated that it is not clear if KM-TGP will meet the October date they had announced for when they will file their Application for a Certificate of Public Convenience ("Application"). Now KM-TGP is once again referring to "4th Quarter" for the application filing rather than October, so that may be signaling a potential delay in the submittal of their Application. Once the Application is filed, FERC has 10 business days to decide if they will accept it. If they do, FERC will formally notice the Application and a 21-day period commences when Intervenor Requests can be filed. Towns should continue to prepare Intervenor Requests to be ready for the filing period. Towns planning to file for Intervenor status at this point include:

- Northfield
- Deerfield
- Montague
- Plainfield
- Conway
- Shelburne

We do not know about Ashfield or Erving at this time. All Towns are encouraged to seek individual Intervenor status. Pictures can be included in the Intervenor requests which our Attorney advises can be helpful to introduce Franklin County to the FERC reviewers and to provide context. There is a cost and some staff time involved in applying for Intervenor status, but it is limited. FRCOG has already provided a template for use by Towns and review by the legal counsel hired by FRCOG is included in the current Scope of Work. Towns that would like to take advantage of the opportunity for legal review of their Draft Intervenor requests should coordinate with Peggy Sloan.

There was discussion regarding the need to state whether you are for, against, or neutral when applying for Intervenor status. L. Dunlavy responded that she is not sure why that is on the Intervenor template form, but FRCOG was told that it was OK to remain neutral at this time. However, the FRCOG may decide to take a position later in the process. The FRCOG Executive Committee or Council would need to vote on the question of changing the current neutral position of the FRCOG, which was thought to be

most appropriate when applying for Intervenor status or at least until additional information is provided.

Challenges to conditions of a Certificate, if granted by FERC, are likely to be more successful than a challenge to the Certificate as a whole. Rehearing requests or challenges to the conditions of the Certificate will likely require considerable staff time and legal expense. C. Myers suggested that Towns may not necessarily need a lawyer, but P. Sloan pointed out the benefit of legal expertise in citing relevant statutes, identifying conditions imposed on other gas pipeline projects, and providing information in a format and language to which FERC is accustomed.

T. Miner noted that if you do not intervene, you do not get to sit at the table, but it does not bind you going forward. J. Judd explained that he was trying to protect the region as a whole by pooling resources, not just the individual Towns being represented. D. Andrew reported that she spoke against considering a Host Community Agreement at Town Meeting because this approach had not been reviewed by Town Counsel at that time and she was not comfortable with contracting with a company like Kinder Morgan. L. Dunlavy stated that at this point it does not appear that any town is interested in considering a Host Community Agreement and that it has been removed from the Scope of Work for some time.

### **3. Update on Study/Information Requests for FERC Scoping Session Filing: P. Sloan**

P. Sloan reported that study requests are complete and have been submitted.

### **4. Update on FRCOG Phase II Scope of Work & Model Bylaw: P. Sloan and Committee Members**

Towns currently participating in Phase II work include:

- Northfield
- Montague
- Erving
- Conway
- Deerfield (voted \$8,500 at Town Meeting, but has not sent a formal letter back)

\$11,000 per Town if 5 towns are participating (Deerfield will have to come up with the extra \$1,500);  
\$13,750 per Town if just 4 Towns participate.

Shelburne was thinking about taking it back to Town Meeting this winter.

P. Sloan reported that FRCOG at this point is planning to enter into a Memorandum of Agreement (MOA) with the 4-Towns that have formally responded to date. Costs in the Agreement are estimates and there may be additional costs that will need to be addressed at a later date. If more towns come on board, the effort may be more cost effective. In addition, there might be specialists in the communities who would be willing to provide their services at low or no cost. Outside consultants may be perceived to be less biased. Deerfield is offering the option of accepting donations to help respond to the pipeline proposal. FRCOG must follow State procurement rules.

L. Dunlavy asked everyone to review the Scope of Work and provide comments, as it will form the basis for the work completed under the MOA.

Model Bylaw — The noise section has raised particular questions and will be reviewed and re-drafted. T. Rogers reported that Northfield is contemplating splitting the noise section off from the other sections when presenting to Town Meeting. P. Sloan noted that the model bylaw was created so towns could choose relevant sections and customize it to address their concerns.

M. Burch reported that a Conway resident noticed excessive work by Eversource in a vernal pool and wetland area related to upgrading an access road to the electric transmission lines without filing with the Conservation Commission. Questions were raised with the local Conservation Commission and MADEP and there will be follow-up on the issue. Similar problems have been identified in Shelburne, where the road upgrading work has already been completed, including installation of new poles. Ashfield also has been experiencing similar issues. P. Ryan reported that a subcontractor, Northern Land Clearing, that did work for Eversource in Plainfield is also the same corporation seeking access for surveys for the KM-TGP pipeline.

P. Sloan reported that a major re-routing of the pipeline gets more difficult as time progresses although FERC has asked KM-TGP for a more detailed analysis of the MassPike (MA) / I-88 (NY) alternative. FERC staff conducted field visits in Berkshire County, but P. Sloan is not sure if they have conducted field visits in Franklin County.

A. Elan asked if this Committee is the proper body to raise pipeline issues in regard to Eversource and their ownership of the Montague Plains. Eversource has given permission to KM-TGP to survey the property they own, but we have no confirmation of their having agreed to construction of the pipeline. Is Eversource also allowed to give permission for access where they only have an easement? We have been advised by TGP that they are only surveying fee owned land of Eversource and do not have permission to conduct surveys on land subject to an easement.

In the FERC letter and their comments to the resource reports, they raise the issue of collaboration with the electric companies and the potential for them to contract for capacity on the pipeline. Oct. 29 is the deadline for the “Open Season” to be concluded for the electric distribution companies to contract with KM for capacity on the new pipeline. According to KM-TGP Application filed on November 20, 2015, they only have expressions of interest at this point and no firm commitment from electric generating company.

Kinder Morgan has not yet released maps showing the specific location of the pipeline relative to utility easements. P. Ryan reported that she got a letter with a map showing that the pipeline is not proposed to be within the existing right-of-way, but it is located outside of it. An engineer presenting at the BRPC workshop recommended that the pipeline not be directly within the electricity easement and should be as much as 1000 feet away. Pipelines crossing transmission lines raise technical and safety concerns.

#### **5. Updates by Plan-NE on MA Coalition & FERC Process: K. Eiseman, Director – Plan-NE**

K. Eiseman provided the following updates:

Steve Kulik has introduced a bill which will have a hearing next week that changes who is eligible for Intervenor status with respect to the DPU process. This is an important issue because the contracts approved by the DPU form the commitment base that FERC will consider when determining if there is need for the pipeline.

K. Eiseman has reviewed the statements Senator Rosenberg has issued after his meeting with FERC officials. Senator Rosenberg is interested in considering a possible State “Cooperating Agency” that

would have a seat at the table with FERC as they prepare the DEIS. They would not be allowed to intervene or appeal, but could have ex parte communications with FERC. Eiseman stated that Senator Rosenberg has recommended DOER. DOER helped to push through the Berkshire Gas Company proposals and were advocating the use of a tariff to pay for the pipeline, so their potential involvement is concerning. The Office of the State Geologist would be a better agency to serve as a Cooperating Agency, but they only have a single staff person, Steve Mabee and would need funding to undertake the process. No matter how you feel about the Cooperating Agency idea, it would still be a good idea to involve the State Geologist in the FERC process.

KM's quarterly earnings will be the subject of a presentation to investors and analysts later this month (10-21-15). KM is announcing their earnings today following the close of the markets. C. Ness believes that any actions that slow down the process will affect the company's bottom line and may impact their willingness and ability to proceed with the proposed pipeline.

P. Sloan reported that there was a request for FRCOG to invite the MEPA Project Officer, Alex Strycky to this meeting, but he was unable to come. The MEPA Unit is hoping to hold at least a couple of sessions in the region once the MEPA application has been filed. Greenfield (GCC) is a likely location and perhaps Northfield because of the proposed Compressor Station. The State has additional criteria that they consider, like greenhouse gas emissions, which hopefully could also factor into the FERC process if they are raised at the state level. Typically MEPA holds a field visit for projects. C. Ness would like to hold the next meeting when A. Strycky is available. P. Sloan indicated that staff may not be able to attend until an application is submitted to the MEPA Unit given limited staff resources. L. Dunlavy reported that Secretary Beaton has good relations with our State representatives and perhaps we could request that he authorize an exception in this case to allow MEPA staff to attend a meeting here. FRCOG will pursue that possibility with MEPA.

Would the MEPA process be similar to the FERC process, in terms of written comments and spoken presentations? That would be the focus of the presentation, how the MEPA process is conducted and opportunities for public input.

T. Miner raised the issue of the recently announced closing of the Yankee Pilgrim nuclear power plant. He noted that the Governor immediately came out and said that this is why we need additional sources of energy. Other members pointed out that the political process dictates changing policies as the leadership changes.

**6. Next Meeting Date/ Other Topics not reasonably anticipated 48 hours in advance of the meeting/  
Adjourn: L. Dunlavy**

L. Dunlavy polled the committee about the timing of the next meeting. C. Ness wanted to meet whenever MEPA staff is available. Others agreed that the Committee does not need to meet again prior to the FERC filing. The meeting should be held as soon after the filing as possible. L. Dunlavy noted that the FRCOG will send out an e-mail when the filing has occurred and will notify members of the meeting date soon thereafter.

**Plainfield Notice:** P. Ryan notified the Committee that a demonstration is planned for this Sunday, October 18, 2015 on Route 116 in Plainfield from Noon to 2:00 PM about KM proposing a contractor yard on APR land in Town.

Meeting adjourned at 5:00 PM