

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, JANUARY 13, 2015

Present: Chairman Charles C. Woodard, Selectman Lawrence W. O'Brien, Selectman Robert C. Haarde, Selectman Leonard A. Simon, Vice-Chairman Patricia A. Brown and Town Manager Maureen Valente

The statutory requirements as to notice having been complied with, the meeting was convened at 7:33 p.m. in the Lower Town Hall, 322 Concord Road.

Opening Remarks

At 7:33 p.m., Chairman Woodard opened the meeting. He announced there are 15 Town-elected positions open for the upcoming Town Election on March 30, 2015, and the deadline for candidates to file papers is February 2, 2015. He also reminded the community that the Warrant period will close on February 2, 2015 for the Annual 2015 Town Meeting in May. Chairman Woodard announced he and Selectman Haarde will conduct Board of Selectmen Office Hours on January 15, 2015 at 8:00 a.m., in the Thompson Room of the Flynn Building, and Selectmen Brown and Simon will conduct Office Hours on February 9, 2015 at 9:00 a.m., at the Fairbank Senior Center. He also encouraged the community to attend the Rail Trail Town Forum on January 22, 2015, at 7:00 p.m. at Town Hall, noting questions can be submitted in advance and during the Forum.

Reports from the Town Manager

Town Manager Valente thanked Facilities Director Jim Kelly and his staff for maintaining the heating systems in the Town's buildings during the recent cold spell. She also thanked the SudburyTV staff for their ongoing support. She stated there have been several meetings for the Strategic Financial Committees for OPEB and Capital Funding and final reports will be presented to the Board. Town Manager Valente stated the Town has welcomed its new Town Counsel Barbara Saint Andre, who is working with staff to get acquainted with Town issues. Town Manager Valente recognized the efforts of all who worked to create, and dedicate in the honor of John Toland, the skating rink outside the Fairbank Building.

Reports from the Board of Selectmen

Vice-Chairman Brown stated she has attended the Community Preservation Committee (CPC) meetings regarding FY16 funding for proposed projects. She also stated the Vocational Education Options Committee has continued its meetings, and is working to finalize its report and recommendations. Vice-Chairman Brown was asked by Sudbury's Minuteman School District representative David Manjarrez to announce the District's meetings are available for viewing on SudburyTV.org. She asked if the Town's certified financial reports would soon be made available to the Finance Committee. Town Manager Valente stated the Finance Director is working on this.

Selectman Haarde stated he has also attended the Vocational Education Options Committee meetings, noting its report will be issued soon. He also has been busy attending labor contract negotiation Executive Session meetings for Lincoln-Sudbury Regional High School Committee. Selectman Haarde also attended the skating rink dedication.

Selectman Simon attended the lighting of the Menorah ceremony on the Town Common in December. On January 6, 2015, he attended a Capital Improvement Advisory Committee (CIAC) Meeting where many proposed and pending projects were discussed and a Metropolitan Planning Organization meeting in Malden regarding area transportation planning. Selectman Simon also attended the CPC meetings regarding the proposed FY16 projects requesting Community Preservation Act (CPA) funding.

Selectman O'Brien attended a meeting on the Town Center Improvements Project and several Strategic Financial Planning Committee meetings for OPEB and Capital Funding. He also attended a Sudbury Housing Authority meeting tonight.

Chairman Woodard stated he attended many of the same meetings already mentioned and also some Finance Committee meetings.

Citizen's Comments

At 7:47 p.m., Chairman Woodard recognized Sudbury citizen Dick Williamson, 21 Pendleton Road.

Mr. Williamson clarified information he provided in error at the December 2014 Special Town Meeting regarding the Mass. Central Rail Trail (MCRT) Non-Binding Article. He explained his \$36 million reference was not from the Transportation Bill, but rather from a submission to the Governor which was not approved. He stated no funding has been authorized or appropriated by the State for this rail trail. However, Mr. Williamson remains optimistic, noting there are legislators supportive of the project.

Selectman Haarde noted Mr. Williamson stated at the Special Town Meeting that \$36 million was approved to build the MCRT, which may have influenced voters to pass the article, even though the information was incorrect. He further stated this information was challenged by Vice-Chairman Brown in a meeting immediately preceding the Special Town Meeting, but the information was kept in Mr. Williamson's presentation. Selectman Haarde believes the Board should make sure this does not happen again and that information in Town Meeting presentations should be vetted for accuracy. He also believes the misinformation could have been corrected had there been discussion allowed on the non-binding article at the Special Town Meeting.

At 7:51 p.m., Chairman Woodard recognized Sudbury citizen Andrew Sullivan, 28 French Road. Mr. Sullivan stated Sudbury Greenways has received its Chapter 501c 3 status from the IRS, and it is now able to accept donations at its Post Office Box. He stated he supports immediately building the MCRT and the Bruce Freeman Rail Trail (BFRT) through a design/build process. Mr. Sullivan referenced a letter sent to Selectman Simon dated May 1, 2014 from the Mass. Department of Transportation Rail Division, and he hopes to receive clarification on the letter's content prior to the Rail Trail Forum. He questioned Selectman Simon's ethical conduct regarding rail trail issues, noting Open Meeting Law violations have occurred. Chairman Woodard requested Mr. Sullivan to conclude his remarks and for Selectman Simon not to respond.

At 7:53 p.m., Chairman Woodard recognized Sudbury citizen Frank Lyons, 157 Wayside Inn Road, who has lived in Sudbury since 1969. Mr. Lyons stated the Buddy Dog relocation topic will be an issue in the upcoming Town Election, noting 360 signatures have been obtained in opposition to the relocation. He encouraged all candidates in the Town Election to take and state their position clearly on this issue. Mr. Lyons noted that, to date, Buddy Dog has not submitted a plan to the Town.

At 7:55 p.m., Chairman Woodard recognized Sudbury citizen Ralph Tyler, One Deacon Lane to the meeting. Mr. Tyler stated he is concerned about the witch hunts occurring in Town and that the First Amendment seems to be in jeopardy. He does not believe that a citizen loses their First Amendment right when they become an elected official. Mr. Tyler is very concerned about the attempts to infringe upon and regulate the type of speech which is allowed. He does not believe Selectman Simon should be subjected to the criticism he has received for voicing his personal preference for the BFRT, which Mr. Simon has also expressed in public meetings. He urged the Board to not support the oppression of free speech in Sudbury.

Mr. Tyler also stated that it is the Town's obligation to provide streets which are safe for the community. He noted there is still not a completed walkway network in Town and runners from the High School run on Concord Road amidst traffic. With all the money being discussed to be appropriated for many projects in Town, Mr. Tyler believes completing the Town's walkway system should be a priority for the next few years, with interest rates as low as they are.

At 8:00 p.m., Chairman Woodard recognized Sudbury citizen Michael Shapanka, 170 Wayside Inn Road to the meeting.

Mr. Shapanka distributed copies to the Board of his prepared statement, which he read aloud, and accompanying materials. He stated he and 27 co-signers have drafted a letter to the Board requesting the new Town Counsel be asked to review and opine on the protection of Buddy Dog under the Dover Amendment. Mr. Shapanka and his colleagues do not believe Buddy Dog meets the criteria for this protection and they believe the relocation of Buddy Dog to the Wayside Inn Road area is inappropriate. He emphasized he and his group support the work and mission of Buddy Dog, but they believe the work would be better done in a more suitable location somewhere else in Town.

Other Post-employment Benefits (OPEB) Liability - Actuarial Report

Present: KMS Actuaries LLC Representative Linda Bournival and Assistant Town Manager Maryanne Bilodeau

At 8:03 p.m., Chairman Woodard opened a discussion on the Town's Other Post-Employment Benefits (OPEB) liability. He noted several members of the Finance Committee, the Sudbury Public School Committee (SPS), and the Lincoln-Sudbury Regional High School (L-SRHS) Finance Committee are in attendance tonight. The Board was previously in receipt of copies of a memorandum from Town Manager Valente dated January 8, 2015; the slides for tonight's presentation entitled "Town of Sudbury Postemployment Benefits Other Than Pensions (OPEB) Board of Selectmen Presentation of July 1, 2013 GASB 45 Valuation dated January 13, 2015; and accompanying glossary of terms;" two sets of PowerPoint slides from longer presentations of relevant information prepared by KMS Actuaries, and the accompanying "Town of Sudbury Other Post-Employment Benefits Program Actuarial Valuation dated July 1, 2013;" the "Lincoln-Sudbury Regional School District Other Postemployment Benefits Program Actuarial Valuation dated July 1, 2013," both prepared by KMS Actuaries, LLC, and the "Town of Sudbury Final Report of the Strategic Financial Planning Committee for OPEB (Other Post-Employment Benefits) Liabilities dated January 6, 2015.

KMS Actuaries LLC representative Linda Bournival was introduced to summarize her company's OPEB reports for Town and Sudbury Public Schools' (SPS) employees and the Lincoln-Sudbury Regional High School District (L-SRHS). Ms. Bournival explained the assumptions used for the reports to estimate the plan obligations as of July 1, 2013 were done according to the Governmental Accounting Standards Board (GASB) standards based upon GASB Statement 45 valuations, and to provide information that may be helpful in future planning. She noted GASB 45 does not require funding OPEB liabilities, only reporting them.

Through a PowerPoint presentation, Ms. Bournival reviewed Census Data as of July 1, 2013 noting 529 active Town and SPS employees and 207 L-SRHS District active employees; and 440 Town/SPS retired employees, covered spouses and survivors and 171 L-SRHS retired employees, covered spouses and survivors. She explained this data is used to calculate the liability, based on certain assumptions. Ms. Bournival further explained the analysis looks at the benefits to be paid in the future to calculate a present value and to determine the accrued liability as of July 1, 2013. She presented information regarding different discount rates, noting the report used a 3.5% discount rate for a long-term view of the anticipated rates of

return, which results in an Actuarial Accrued Liability (AAL) as of July 1, 2013 of \$36,004,783 for the Town/SPS and \$27,234,000 for L-SRHS. Ms. Bournival noted these benefits are currently being paid on a pay-as-you-go basis. However, if the Town were to establish an OPEB Trust, the analysis would consider using a higher discount rate.

Chairman Woodard asked Ms. Bournival to explain how normal costs, which he described as the cost of offering the benefits today to all current employees, are currently handled and how they could be tracked in the future. Ms. Bournival explained how GASB 45 calculates the Annual Required Costs (ARC) which is only for recording purposes and is not required to be funded. She also explained the Net OPEB Obligation which reflects the difference between the ARC and what has actually been contributed.

Ms. Bournival summarized the OPEB Liability Sensitivity Analysis, which includes the expectations for future healthcare costs. She presented information indicating that if the discount rate were reduced by 1% to 2.5%, the liability would increase by approximately 21.6%, and if the discount rate were increased by 1% to 4.5%, then the liability would be reduced by approximately 16.2%. She noted the constitution of the group also impacts the figures.

Chairman Woodard asked if the company follows set professional standards for the assumptions applied. Ms. Bournival stated the analysis is guided by the GASB recommendations, past experience and other studies.

Selectman Simon asked if there were any unanticipated changes from the time of the Town's last report. Ms. Bournival stated the healthcare premium increases were less than what had been expected, but that this factor had been anticipated to a degree.

Chairman Woodard noted the L-SRHS liability improvements were significant. Ms. Bournival explained the L-SRHS plan was reviewed to ensure it could be assessed as a community-rated plan similar to that of the Town/SPS Group Insurance Commission (GIC) plan. She stated it was determined the plan was community-rated. However, she noted that going forward based on GASB changes, the plans will have to add back in the implicit subsidies which were subtracted.

Assistant Town Manager Maryanne Bilodeau asked how the adding back of the implicit subsidy might alter the figures. Ms. Bournival stated it would depend on several factors, including the average age of the active employees.

Vice-Chairman Brown questioned whether the State pension plan year-over-year estimate of 7% is realistic. Ms. Bournival stated it is realistic for a long-term projection based on past history.

Town Manager Valente noted the proposed figure to be budgeted for normal costs per employee may need to be reviewed based on the implicit subsidy being added back in.

At 8:28 p.m., Chairman Woodard thanked Ms. Bournival for the report update. He asked Selectman O'Brien, who is Chairman of the Strategic Financial Planning Committee for OPEB Liabilities, to summarize the Committee's Final Report.

Strategic Financial Planning Committee for OPEB Liabilities – Final Report and Recommendations, and Disband the Committee

Selectman O'Brien referenced the last page of the Final Report, listing the members of the Committee whom he named aloud, and he noted they represent all three cost centers. He stated the Selectmen

established the ad-hoc committee in October 2013 and it began its work after the 2014 Town Meeting to begin to develop strategies and options for dealing with the unfunded OPEB liability. He further stated the Committee spent considerable time analyzing data. Selectman O'Brien stated the first few pages of the report highlight what costs are entailed in OPEB and how the Government Accounting Standards Board (GASB) requires they be tracked. Selectman O'Brien stated the Town and L-SRHS had actuarial valuations provided as of July 1, 2013.

Selectman O'Brien referred to the information on page 7 of the Report, and he summarized the steps taken already by the Town/SPS and L-SRHS to address OPEB obligations, including retaining a consultant to prepare actuarial analyses, making significant changes to the health insurance benefits offered to employees, negotiating lower contribution rates for all employees, and lower rates for new hires. In addition the Town Selectmen voted to enroll employees and retirees in the Group Insurance Commission (GIC). L-SRHS employees accepted plan design changes and contribution rate changes for new enrollees. He further stated the Town/SPS received approval through a Special Act in 2006 to establish a Town/SPS Liability Trust Fund for OPEB obligations, which has accumulated \$181,000 by appropriating funds for retiree health insurance and then paying the benefits from the Fund.

Selectman O'Brien summarized the Committee's recommendations, which were voted unanimously, which include to immediately create/formalize liability trust funds, to begin to fund the annual "normal" costs in FY16 for future health insurance for current employees, to take steps in FY16 to address the Actuarial Accrued Liability (AAL) that has accumulated, to ask for an appropriation for all but \$150,000 of the balance of the closed Health Claims Trust Fund to the OPEB Liability Trust Fund at the 2015 Town Meeting, to begin allocating a percentage of Free Cash to the AAL for the three cost centers in FY16, and to consider dedicating one revenue source, such as the local option room tax and/or the meals tax to the AAL.

Selectman O'Brien also reviewed action steps to be further studied and implemented in the future, including redirecting pension funding in 2036 to OPEB funding and to bill other towns for an applicable premium portion. The Committee also recommends the Selectmen create a similar advisory committee in 2015 to review the OPEB status. He noted the figures provided in the Report are consistent with the information provided in the Actuaries' Report. Selectman O'Brien highlighted the NOTE on Page 8 of the Report, stating the implementation of including normal costs in the FY16 budget for L-SRHS would depend on a match from the Town of Lincoln. He also noted the Report concludes one solution does not fit all, since L-SRHS is a separate governmental entity, with a different retiree benefit structure than that of the Town/SPS. Selectman O'Brien stated the Committee also recommends it be disbanded, since its mission has been accomplished. He stated it was a great Committee to work with, and he thanked the members for their hard work.

Selectman Haarde stated it is a great Report. He asked if the Town of Lincoln was represented on the Committee, since he believes the Town should also be asked to contribute its Free Cash in a similar manner as Sudbury plans to do. Selectman O'Brien stated Lincoln did not have a member on the Committee, but the High School did and will continue to keep Lincoln apprised of the Committee's recommendations.

Chairman Woodard stated it will be important for the contributions from both Sudbury and Lincoln be made into the Trust Fund. He also stated Lincoln will need to consider this information in time to possibly present an article at its March 2015 Town Meeting.

Lincoln-Sudbury School Committee member Nancy Marshall stated Lincoln has been funding a specified amount for the past few years and is supportive of attending to these costs.

Selectman Simon commended the Committee on its work and thorough Report, which he believes defines the problem and quantifies it. He believes the recommendation to fund \$675 per employee for normal costs is a good start to tackling this issue. He also believes designating a percentage of Free Cash to these costs should be further considered as a viable option.

Vice-Chairman Brown noted that to dedicate a specific revenue source to the Trust Fund would require a Special Act, and she asked if this has been requested from the Legislature. Selectman O'Brien stated it is possible a potential article could be discussed by the Board at a later time to be presented at the 2015 Town Meeting.

Lincoln-Sudbury Regional District School Committee Chair Radha Gargeya emphasized Lincoln must be made aware of this information as soon as possible in case a Warrant article needs to be submitted by Lincoln for its March 2015 Town Meeting.

Town Manager Valente stated the Report recommends each cost center submits a supplemental budget request, and L-SRHS should discuss this as part of its budget process with Lincoln.

It was on motion unanimously

VOTED: To accept the Town of Sudbury Final Report of the Strategic Financial Planning Committee for OPEB (Other Post-Employment Benefits) Liabilities" dated January 6, 2015 as discussed tonight.

It was also on motion unanimously

VOTED: To thank the Strategic Financial Planning Committee for its work and Final Report, which was presented tonight.

It was further on motion unanimously

VOTED: To disband the Strategic Financial Planning Committee for OPEB (Other Post-Employment Benefits) as it has completed its report and work.

Johnson Farm Acquisition – Pending Approval Not Required Plan

Present: Director of Planning and Community Development Jody Kablack

At 8:53 p.m., Chairman Woodard welcomed Director of Planning and Community Development Jody Kablack to present the Board with an update regarding the acquisition of Johnson Farm. The Board was previously in receipt of copies of a memorandum from Director of Planning and Community Development Jody Kablack dated January 8, 2015 and accompanying "Approval Not Required (ANR) Plans."

Ms. Kablack summarized her memo, stating the property owner Bob Moss has produced an ANR Plan for endorsement by the Planning Board, which contains minor changes. She explained the sizes of the two lots to be retained by the owner for development are slightly increased to 1.12 acres and 1.06 acres. The remaining land is 33.48 acres. She believes the small increase is to allow for flexibility of the Town to access the rear of the property. In addition, she explained the 20-foot access strip and parking area have been reconfigured and expanded to allow for more parking closer to Landham Road. Ms. Kablack does not think the changes have any significant bearing on the project, and thus she recommends proceeding with the acquisition.

Selectman O'Brien stated he believes the revised plans are in the spirit of what was presented at Town Meeting.

It was on motion unanimously

VOTED: To authorize continuation of the Johnson Farm purchase based on the pending Approval Not Required Plan as submitted and discussed tonight.

Mass. Central Rail Trail – Community Preservation Committee Funding Request – Proposed Revision
Present: Director of Planning and Community Development Jody Kablack and Assistant Planner Jim Kupfer

At 9:00 p.m., Chairman Woodard opened a discussion regarding the Community Preservation Committee (CPC) Project Submission for \$300,000 in Community Preservation Act (CPA) funding for design/build specifications for the Mass. Central Rail Trail (MCRT) Phase 1. The Board was previously in receipt of copies of a memorandum from Director of Planning and Community Development Jody Kablack and Assistant Planner Jim Kupfer dated January 7, 2015, a memorandum from Fay, Spofford & Thorndike to Ms. Kablack and Mr. Kupfer dated December 5, 2014 and an article entitled "The Basics of Design-Build."

Ms. Kablack stated the Planning Department has continued its research for this project, and it has accumulated new information which it believes merits the attention of the Board. She explained the project moved forward quickly in order to meet the submission deadline for CPA funding proposals, but it was also stated more information would be needed. Ms. Kablack stated in recent weeks, negative feedback has been received from two engineering firms regarding the design/build concept. Ms. Kablack stated the Department of Conservation and Recreation (DCR) has provided preliminary approvals, but no formal approvals to date. She stated abutting communities have been contacted, and she has met with Sudbury Greenways and NStar. Ms. Kablack stated there are pros and cons to both the design/build and the design/bid/build processes. She further stated information from other communities regarding performance issues with work done by Iron Horse Preservation Society has been received.

Ms. Kablack stated the initial recommendation was to seek funding for a design/build concept for Phase 1. Ms. Kablack explained knowing the extent of the wetlands resources is important to know early and could impact the cost of the project. She further reported NStar has discussed a potential project to install a transmission line from Sudbury to Hudson, along the MCRT corridor (either above or below ground). NStar officials are negotiating a lease with the MBTA for use of the corridor. If the project proceeds, permitting would be done by the end of 2015 to be constructed in 2018 -2019. NStar would construct a 12-foot wide access road, which they would share as a rail trail. Thus, the trail would be built by NStar, at no cost to the Town. She noted the CPC has delayed its vote on the project request until after this information could be presented to the Board tonight.

Ms. Kablack suggested a new process and timeline should possibly be considered. The new recommendation is to proceed with the project in two steps, first to be designed and bid, and secondly to be constructed. She noted this would take six to nine months longer, but it will expedite wetlands permitting and could minimize duplication of efforts and costs, and it reduces the need for a separate project engineer to be hired. Ms. Kablack also noted the Town will know more in six months as to how the NStar project will proceed, and if it can build the trail at no cost to the Town, the project would be delayed by approximately two to three years. To keep momentum going for the project, it is recommended the CPC project request be reduced to \$110,000 for a more traditional design/bid/build process, which could be returned to the CPA account if NStar eventually constructs the trail. If NStar does not proceed, the Town can design the trail in 2015 and ask for construction funds at the 2016 Town Meeting. It is also recommended that work continues

with Sudbury Greenways and the DCR. Ms. Kablack further stated her office has started to also reach out to abutters.

Chairman Woodard asked what would happen if the Warrant article appropriated \$300,000 for a design/build process, but the bids come in significantly higher. Ms. Kablack stated a new funding request would need to be presented to another Town Meeting.

Selectman Haarde asked for clarification regarding when a design/build trail would be constructed and when a design/bid/build trail would be constructed. Assistant Planner Jim Kupfer and Ms. Kablack stated a design/build trail would be built by May 2016 and a design/bid/build trail would be constructed approximately six to nine months later.

Selectman Haarde stated it would be great if NStar built the trail for the Town, but he is apprehensive about what the final result will be and whether the company will cooperate with the Town. He also asked if the access roads NStar would construct would be consistent with the Town's preferences. Ms. Kablack stated that, if NStar proceeds with the project, the Town would know exactly what it was getting because NStar works with very specific plans. She also noted the company was very cooperative with the Town working on the development of its new substation on Route 20. Ms. Kablack further stated NStar wants a 12-foot access road.

Vice-Chairman Brown circulated a photograph to the Board of above-ground transmission lines in Wayland.

In response to a question from Selectman O'Brien, Ms. Kablack stated she has communicated with Hudson officials who have similar preferences to those of Sudbury for the transmission lines to be installed underground. She also stated these preferences have been shared with NStar in early discussions and will continue to be emphasized.

A brief discussion ensued regarding whether placeholders should be submitted for two Warrant articles to help expedite the process or whether the project should be presented for two phases of funding. However, Chairman Woodard noted the amount of the original request for \$300,000 is now in question as to whether it is sufficient. Ms. Kablack agreed, stating she is not comfortable that \$300,000 is the correct figure for the design/build process. She further stated two articles would complicate matters for the CPC, which already has limited funds to recommend this year.

Vice-Chairman Brown stated the Town must also consider that NStar could later come in and destroy whatever the Town has previously done, which could be expensive.

Selectman Simon stated he believes the recommendation for a design/bid/build approach seems appropriate and it allows for time for public input. He also believes this process will give the Town a better idea of what the costs will be for other sections of the MCRT. Selectman Simon asked Ms. Kablack to keep the Board apprised of information regarding the NStar project.

Vice-Chairman Brown asked what other firms were consulted regarding the design/build process, and Ms. Kablack provided the names of the firms (FST, VHB and BETA)..

Chairman Woodard stated this project will be a Town asset for decades to come. He believes it is important it be constructed well the first time. Chairman Woodard further stated he was initially inclined to prefer a design/bid/build process, but given the additional information, he is inclined to support tonight's recommendation.

In response to a comment made earlier tonight, Sudbury resident Andrew Sullivan, 28 French Road, stated he is unaware that BETA Engineering and Iron Horse worked together on the Danvers Rail Trail. He believes the trail in Danvers was under-designed, which is why it has experienced certain problems.

Vice-Chairman Brown asked if Phase 1 of the MCRT will comply with the Town's bylaws. Ms. Kablack stated this will be up to how the Board decides to proceed on this type of Town project.

Chairman Woodard asked the Board if it wished to vote on the recommendations presented tonight or whether it wished to wait until after the Rail Trail Town Forum to receive public input.

Vice-Chairman Brown stated she would rather wait until after the Rail Trail Forum. Selectman Haarde stated he is comfortable also waiting until after the Forum.

Selectmen O'Brien and Simon stated they are inclined to support the recommendations presented tonight and would be comfortable voting tonight.

It was on motion unanimously

VOTED: To continue discussion and vote regarding funding for Phase 1 of the Mass Central Rail Trail project at the Board's January 27, 2015 meeting.

Selectman Simon asked if a representative from Fay, Spofford & Thorndike engineers could be asked to attend the Rail Trail Town Forum. Ms. Kablack stated the firm is not under contract with the Town. However, she stated a representative from Vanasse Hangen Brustlin (VHB) will be in attendance.

Open Meeting Law Attorney General Report – Selectman Len Simon

Chairman Woodard opened a discussion regarding an Open Meeting Law Attorney General Report on the complaints regarding Selectman Len Simon, which stated a violation occurred. The Board was previously in receipt of copies of a letter from the Commonwealth of Massachusetts Office of the Attorney General dated December 19, 2014.

Chairman Woodard briefly reviewed that 14 complaints have been filed this year, including seven filed against Selectmen Simon, five against himself, and another against himself and Selectman Haarde. He stated mistakes were made in the past by Selectman Simon, and he and the Board have learned from them. He stated the Town Manager will arrange with Town Counsel to provide the Board with additional Open Meeting Law training. Chairman Woodard stated everyone makes mistakes, and he urged the Board to remain focused on the Town's business.

Selectman Simon stated the conclusion reached by the Attorney General is a lesson he and everyone can learn from, and he now understands how it could be perceived that he committed an unintentional violation. Since the time the complaint was filed, Selectman Simon stated he has tried to better educate himself on the law by reviewing guidelines and communications and decisions made by the Attorney General. He stated he welcomes further training and will make every effort henceforth to comply with the law. Selectman Simon reiterated that his mistakes were unintentional.

Vice-Chairman Brown stated she was not pleased to learn Selectman Simon referenced her on page 7 of a letter he wrote to the Attorney General's office and she is pursuing this with Town Counsel.

Sudbury resident Bob Stein, 7 Thompson Drive, stated he had hoped Selectman Simon and Chairman Woodard would apologize to the community and to the citizens who brought these violations to the attention of the Board. Mr. Stein stated he finds it very disappointing that an apology has not been offered as a gesture of healing.

Selectman Haarde stated he does not feel a sense of genuine remorse from Selectman Simon or Chairman Woodard. He believes the Board is well trained by the Town Clerk and there is a Board email policy and that this issue should not be dismissed as a matter of a lack of training. Selectman Haarde believes the Board should have discussed the complaints and people should admit to their mistakes and do a better job at apologizing.

Sudbury resident Jeffrey Beeler, 57 Wagonwheel Road, read aloud a prepared statement challenging the effectiveness of the Open Meeting Law and noting the State legislature exempts itself from complying with the Law. He believes that, on occasion, the Law can even impede transparency. Mr. Beeler urged the Board to challenge an alleged future violation of the Law in court. He expressed his concern that these complaints have become a weapon with which Board members attack each other. Mr. Beeler stated he finds this type of conduct divisive and it impedes upon the Town's progress to address significant challenges. He provided an example from 2009 wherein Selectman Haarde provided a response in an email regarding a Committee matter, and Selectman Haarde stated in another email that one should be able to provide their opinion in an email. Mr. Beeler believes the filing of these complaints are a distraction from the Town's important business concerns. He further stated that he believes a non-partisan viewpoint for the best interest of the Town needs to be restored by this Board and that it should avoid spending time on these types of discussions.

Selectman Haarde stated his email six years ago was a violation, that he has learned more in the interim and he apologized for his previous actions. He believes one should admit their mistakes and move on.

Sudbury Finance Committee Chair Susan Berry stated it is often difficult to always comply with Open Meeting Laws. However, if a violation occurs, she hopes individuals will work it out with each other, one-on-one, without having to file complaints.

Open Meeting Law Complaint – Discuss and Potentially Refer

At 10:01 p.m., Chairman Woodard opened a continuation of the discussion held at its December 11, 2014 meeting regarding an Open Meeting Law complaint filed by Selectman Robert Haarde dated November 25, 2014. The Board was previously in receipt of copies of an Open Meeting Law Complaint Form filed by Selectman Robert Haarde dated November 25, 2014 and confidential emails from Town Manager Valente dated January 10, 2015 and Town Counsel Barbara Saint Andre dated January 8, 2015.

Chairman Woodard stated the emails received contain new advice received from Town Counsel Saint Andre, which is to remain confidential until the Board votes to make the content public.

It was on motion unanimously

VOTED: To make Town Counsel Barbara Saint Andre's new opinion on Open Meeting Law procedures available to the public.

Chairman Woodard briefly reviewed the history of his request to former Town Counsel Paul Kenny regarding how complaints should be handled. Mr. Kenny advised him to have the Board vote to refer the complaints to Town Counsel who would respond and refer them to the Attorney General. Chairman Woodard referred to the opinion of Ms. Saint Andre which presents procedures for the Board to follow if a

complaint is filed. He recommended the Board adopts the new procedures and that it votes to refer Selectman Haarde's complaint.

Vice-Chairman Brown asked if the other six complaints previously filed would follow the old process and whether Town Counsel Saint Andre should be asked to opine on this.

Selectman Simon stated he believes a centralized procedure for handling complaints would be helpful to the Board. However, he also stated he hopes there will not be future complaints to be processed. Selectman Simon read aloud a portion of a sentence on page two of Ms. Saint Andre's email, noting that in her opinion, "it is not necessary nor advisable for the board or committee to determine the merits of the complaint (i.e. whether or not there was a violation)...." He stated he agrees with this statement, that it is not the Board's place to adjudicate complaints.

In response to a question from Vice-Chairman Brown, Town Manager Valente clarified her understanding of the 14-day review process suggested by Town Counsel.

Selectman Haarde compared the processes as suggested by both Town Counsels Kenny and Saint Andre. He stated the nature of his complaint was that the public body (Board) should have reviewed his complaint as advised by Ms. Saint Andre. Selectman Haarde is pleased with the new process recommendations which allows for remedial actions to be taken by the Board and referral to the Attorney General.

Chairman Woodard suggested, and the Board concurred, that Town Counsel Saint Andre's seventh step for compliance noted on page two of her email be amended to add the words "by Town Counsel" after the word General's.

Selectman Haarde stated he believes it is important the Board has the opportunity to review what will be eventually sent to the Attorney General.

It was on motion unanimously

VOTED: To adopt the process presented by Town Counsel Barbara Saint Andre in her email dated January 8, 2015 for procedures to follow regarding Open Meeting Law complaints, as amended tonight.

It was also on motion unanimously

VOTED: To instruct Town Counsel to refer the Open Meeting Law complaint filed by Selectman Robert Haarde dated November 25, 2014 to the Attorney General with a statement of adoption by the Board of its new process for procedures to be followed regarding Open Meeting Law complaints.

It was also requested to ask Town Counsel to advise the Board of whether the process followed for the other previously filed complaints should be revised.

Strategic Financial Planning Committee for Capital Funding – Preliminary Report and Draft Recommendations

At 10:22 p.m., Chairman Woodard stated the Strategic Financial Planning Committee for Capital Funding has prepared an update to its Interim Report and Recommendations for FY16. The Board was previously in receipt of copies of a memorandum from Town Manager Valente dated January 8, 2015.

Chairman Woodard referenced the memo, stating the Committee is considering revising its initial recommendation regarding the funding plan for the newly established Special Purpose Stabilization Fund for Department of Public Works (DPW) Rolling Stock. Initially, a special purpose capital override was recommended to be requested by the Selectmen each year for \$400,000. It is being contemplated to reduce this figure to \$300,000 a year, with the first request to appear on the March 2015 Town Election Ballot. In addition, the Committee is contemplating designating the rental income received from the Cell Tower at the DPW Transfer Station (estimated to be \$113,000) to the special purpose stabilization fund and that the fund be amended to include Fire Department ambulances, and that the appropriation of a six-wheel dump truck (\$136,500) and a ten-wheel dump truck for \$174,800 be from the Special Purpose Stabilization Fund this year. Chairman Woodard emphasized the suggested revisions are not final and will not be voted by the Committee until its January 15, 2015 meeting. A final report is expected at the Board's next meeting.

Vice-Chairman Brown expressed concern regarding how and if the tax levy would be increased and whether this addition would become the basis for the next year's 2.5% growth.

Town Manager Valente stated the Town is following advice from the Department of Revenue and she is working with Town Counsel to review proposed recommendations. She also highlighted Town Meeting, and not the Board, votes on appropriations which affect tax levy increases.

Selectman Haarde expressed similar concerns to those of Vice-Chairman Brown for the pressures the cost centers face with their budgets. He is not yet sure he can support adding \$300,000 to the budget each year for truck/equipment, whether or not it is needed. Selectman Haarde would rather focus on funding the maintenance required to prolong the life cycle of the vehicles and equipment.

Chairman Woodard stated the Town is better able to monitor its needs now that it has a Facilities Director, and there is an ongoing need for these items, which, at times in the past, has been neglected.

Town Manager Valente highlighted when the Town did not fund these purchases in the past, it had to use leases and pay interest on those leases for the items. She stated the Committee will finalize its recommendations in the coming week or so.

Selectman Simon asked if the recommendation would require the Town to put \$300,000 into the Fund every year. Town Manager Valente stated the appropriation would be recommended, but not required.

Chairman Woodard summarized the option provides Town Meeting the opportunity to vote this rather than have it voted on a Town Ballot.

Rail Trail Forum – Discussion and Vote on Date, Format and Moderator

At 10:34 p.m., Chairman Woodard opened a discussion regarding selecting a moderator for the Rail Trail Forum to be held on January 22, 2015, and he volunteered to fill the role.

It was on motion unanimously

VOTED: To have Chairman Chuck Woodard act as moderator for the Rail Trail Town Forum to be held on January 22, 2015.

2015 Annual Town Meeting Board of Selectmen Articles – Preview

The Board was previously in receipt of copies of a memorandum from Town Manager Valente dated January 8, 2015 and accompanying list of potential articles to be submitted by the Board for the 2015 Annual Town Meeting.

Town Manager Valente reviewed the list of possible Town Meeting articles with the Board, noting recurring articles for budget-related items have been included. She stated Town staff will need the Board to vote on which articles and/or placeholders to put forward for the Warrant at its next meeting on January 27, 2015. Ms. Valente also asked the Board to email her any other potential articles which should be considered.

Massachusetts School Building Authority Project Funding Agreement – Nixon School

The Board was previously in receipt of copies of a letter from the Massachusetts School Building Authority dated December 18, 2014 and accompanying draft Project Funding Agreement Accelerated Repair Program.

It was on motion unanimously

VOTED: To authorize the Town to enter into and be bound by the Project Funding Agreement with the Massachusetts School Building Authority pursuant to Article 1, Nixon School – Partial Roof, Window and Door Replacements, Envelope Repair Project voted at the Special Town Meeting held on December 3, 2014; and further to authorize the Chairman of the Board of Selectmen to execute said document inclusive of Exhibit A, Project Budget; and further to designate the Town Manager to administer the Project Funding Agreement for the Town and to sign all documents relative thereto.

Minuteman Regional Technical High School – School Building Committee Appointment – Discussion and Possible Vote

The Board was previously in receipt of copies of a letter from Minuteman School Committee Chair Jeffrey Stulin dated December 3, 2014, an accompanying email sent on behalf of the Minuteman School Building Committee Chair on September 5, 2014 and a Town of Sudbury Application for Appointment submitted by Paul F. Lynch dated July 28, 2014. Chairman Woodard stated he recommends the Board appoints Mr. Lynch to the Committee.

Vice-Chairman Brown noted the Permanent Building Committee was asked if it could supply a member to be considered for appointment, but the Committee is “tapped out” on current projects.

Selectman O'Brien requested that Town Counsel be asked to opine as to whether the Minuteman School Building Committee has the right to not accept Sudbury's previously appointed representative David Manjarrez. Chairman Woodard and Selectman Haarde agreed it is worth investigating. However, Chairman Woodard also noted it is important for Sudbury to be represented on the Committee. Selectman Haarde stated the Board felt at its last meeting that it does not have enough leverage to appeal the decision.

It was on motion unanimously

VOTED: To appoint Paul Lynch as Sudbury's representative to the Minuteman School Building Committee.

Minutes

Selectman Simon requested additional time to review the tape of the November 12, 2014 meeting before voting on the minutes.

It was on motion unanimously

VOTED: To approve the Regular Session Meeting Minutes of December 3, 2014 (prior to Special Town Meeting) and December 11, 2014.

It was also on motion unanimously

VOTED: To defer approval of the Regular Session Meeting Minutes of November 12, 2014 until a later date.

Permanent Building Committee – Resignation and Appointment

Selectman O'Brien noted Joseph Sziabowski's address needs to be amended. Town Manager Valente stated the correct address is 54 Intervale Road.

It was on motion unanimously

VOTED: To accept the resignation of Thomas Joyner, 19 Center Street, from the Permanent Building Committee and thank him for his service to the Town from April 30, 2010 to present; and further to appoint Joseph J. Sziabowski, 54 Intervale Road, to serve the unexpired term until May 31, 2016, pursuant to the recommendation of the Permanent Building Committee.

There being no further business, the meeting adjourned at 11:02 p.m.

Attest: _____
Maureen G. Valente
Town Manager-Clerk