

IN BOARD OF SUDBURY SELECTMEN  
TUESDAY, JULY 17, 2018

Present: Chairman Robert C. Haarde, Vice-Chairman Daniel E. Carty, Selectman Patricia A. Brown, Selectman Leonard A. Simon, Selectman Janie Dretler, Town Manager Melissa Rodrigues, and Attorney David Doneski of KP Law.

The statutory requirement as to notice having been complied with, the meeting was convened at 2:00 p.m. in the Flynn Building, Silva Conference Room.

**Opening Remarks by Chairman**

At 2:00 p.m., Chairman Haarde called the meeting to order, and stated that the purpose of this meeting was to discuss the Melone Property. He had no other opening remarks.

**Reports from Town Manager**

Town Manager Rodrigues stated that she had no reports.

**Reports from Selectmen**

Selectman Simon stated that the Board would be going into Executive Session after this Open Session meeting, and that the Melone property would not be discussed in Executive session.

**Discuss and evaluate rankings of Request For Proposals (RFP) for the re-use of Melone Property**

Town Manager Rodrigues said that action regarding the Melone Property was approved by a two-thirds vote at Town Meeting, and that the Town had 120 days from July 2 to make the final decision among the three proposals submitted: Quarry North, Cavicchio Greenhouses Inc., and EDF Renewable Energy. She compiled rankings and averaged scores from the Selectmen regarding the three RFPs, and suggested that each proposal representative be interviewed by the Board, and that a public forum be scheduled. Town Manager Rodrigues detailed that the Board could change or amend any rankings which they had previously completed based on any additional information received.

Chairman Haarde asked about the timeframe. Town Manager Rodrigues replied that 120 days are allowed from the July 2 submission date.

Ranking results and comments were distributed to all attending the meeting, and displayed on the screen.

Chairman Haarde referred to the Melone RFP Proposal Rankings being presented, and according to current ranking, the EDF proposal had the highest ranking with Quarry North in second place, and Cavicchio in third place.

Selectmen Simon asked Town Manager Rodrigues if this ranking reflected an average. Town Manager Rodrigues responded affirmatively. Chairman Haarde stated that four of the five selectmen voted in favor of the EDF proposal.

Selectman Brown asked about process. Town Manager Rodrigues said that a structured process is the goal, beginning with interviewing the RFP applicants at a public meeting where questions are directed to the candidates, and that customarily the same questions are presented to each candidate. She acknowledged that sometimes, follow-up questions come from presented questions. Town Manager Rodrigues presented Selectmen comments, and stated that having an appraisal helps to assess value of property, but done early in the process, could potentially cool a sale, but ultimately an appraisal must be done. Chairman Haarde commented that when the old police station was sold the appraisal was done by the buyer. Selectman Dretler questioned the timing of the appraisal. Town Manager Rodrigues suggested that an appraisal be done approximately a month before the

next Town Meeting, and that finding comps for this property would be difficult. Selectman Dretler mentioned the previous Melone valuation reports in 2011 and 2012 were market-based appraisals.

Selectman Simon stressed that it's a different market today with the addition of Meadow Walk, as well as a major mixed-use development currently in process in Maynard, which is larger than Meadow Walk. Because the two developments are close in proximity, he questioned the success of a Melone mixed-use development, due to other similar new developments.

Town Manager Rodrigues suggested doing appraisals for each of the three proposed uses. Vice-Chairman Carty commented that comps would have to be found from each of the three uses.

Town Manager Rodrigues recommended that interview questions come from the compiled rankings and comments, such as questions regarding public safety, traffic, school system, and utilities.

Selectman Dretler inquired about compiling questions for the interview. Town Manager Rodrigues replied that staff would draft proposed questions for the Board to review and decide on, along with the presentation aspect. Selectman Dretler would prefer more time to consider all related matters, and asked if a Finance Committee proforma could be included. Town Manager Rodrigues responded that she was not sure how the Finance Committee could do so without more information. Chairman Haarde said that Town staff would help in this area. Selectman Dretler thought it would be important for the Board to discuss and assess the Town needs before going forward, including the litigation situation in the Town center, as well as the future implications for 40B housing. She thanked the Town Manager and the Town staff for answering questions.

Selectman Simon felt that this is a particularly difficult and complex issue, and would require further joint collaboration among the residents, staff, and various Town boards. He further questioned the contamination status on the Melone property especially with the Town well on the site. He cited that another problematic situation was the land swap which took place some time ago, and the fact that the Town is now in litigation regarding the status of that suit. Selectman Simon added that people in Town want to know all the facts, and avoid any additional litigation. He stated that another unknown was the Wagner property, which the Town does not own, and is another moving part. He mentioned that another smaller issue involved was the moving of the cell tower. In addition, he cited issues of tax impact, potential increase in population, and the fact that the Meadow Walk development forecasts an additional 50 to 70 students to impact the Sudbury School system, and if Quarry North were to be developed that would be an increase of 10%. He was pleased to see the number of residents attending this meeting and felt there was a need for the formation of a working group composed of individuals from ZBA, the Planning Board, Housing Authority, Water District and others to work out these described issues. He stressed that facilitating communications is necessary, and with the Master Plan commencing, recommendations would be useful. The objectives must be clearly identified through input of residents, representatives, and leaders. Selectman Simon thanked the Town Manager, Town staff, and concerned residents for their interest and efforts.

Vice-Chairman Carty thanked staff for all their work. Each of the three proposals had their nuances, especially the proposal with the litigation connection. He added that public and committee comments are vital, and this is an important first step with a lot of work necessary going forward.

Selectman Brown was pleased to hear that there is a process where questions can be gathered and presented, and she would like to set up the needed processes for the project. There is high interest in this project as reflected by the number of attendees at this meeting, and stressed that additional public hearings are strongly encouraged. In order to proceed, she would need to have more of her own questions answered.

Selectman Haarde said that his ranking would be North Quarry in first place, EDF in second place, and Cavicchio in third place. Perhaps the Town could provide Cavicchio with other solutions, but for this property there would not be sufficient revenue for the Town. He continued by stating that the Quarry North proposal would take the proposed Sudbury Station (250 units) away from the center of Town to the Melone Property where roads can

better handle the increased traffic. Possible conservation restrictions could be established where Sudbury Station would go, and assure non-development in perpetuity. He suggested perhaps having rail trail parking, a pavilion, and passive recreation areas such as open space fields and nature trails. Those 40 acres could be a great amenity for the Town.

Selectman Dretler requested the tallies be re-examined, and Town Manager Rodrigues agreed to do so.

Selectman Simon stated that the EDF proposal would provide the Town with an initial pilot fee, a lease, and a one-time upfront payment providing an annual income of \$450,00 per year according to his calculations. Town Manager Rodrigues stated that one payment would be a savings to the Town's energy bill, one payment is a lease payment, and one payment is a PILOT (payment in lieu of taxes), which would have to be negotiated. Town Manager Rodrigues explained that agricultural use of the Melone property would produce next to no revenue. Selectman Simon acknowledged that the dollar amount did not provide much revenue for the Town.

Chairman Haarde requested a Sudbury Station litigation update. Town Manager Rodrigues stated that the litigation was filed two years ago, and the judge ruled against the Town in Summary Judgement, which is a preliminary decision before any actual hearings. That decision was made on the facts of the case.

Attorney Doneski stated that a summary judgement is the disposition of a case, and an assertion from the disputing party who said that there are no facts to support the case, and the case was pending in appeals court at the present time. Selectman Simon felt it was important to get regular updates regarding this litigation, though that cannot be discussed publicly. He added that because this case is in litigation, the residents would not know all the legal ramifications involved in moving forward with the Quarry North proposal. Town Manager Rodrigues added that the defendant was awarded attorney's fees, and currently the Town is also appealing the attorney's fees, and such an appeal takes a considerable amount of time to resolve.

Resident Susan Abrams, 24 Hudson Road, stated that she is the sole residential abutter to the proposed Sudbury Station. She would like to see the Sudbury Station project moved from the Town center, and relocating the project to the Melone site might be a way to eliminate the problem.

Resident Kirsten Roopenian, 45 Harness Lane, works in the Sudbury Conservation Commission office, and one of the proposers of the RFP called and informed a Conservation employee about the land swap, who felt somewhat out of touch with the process. Ms. Roopenian encouraged the Board to involve and inform all permitting authorities in Town before going forward. She added that the EDF proposal would advocate for the clearing of many trees which is not permitted in that area according to conservation, and that a 25-year lease can be a long time, if not done correctly. She said that the Quarry North proposal appeared to satisfy Sudbury's housing need, and the abutters of the Sudbury Station project would be satisfied if the Quarry North development could replace the Sudbury Station project. If Broadacres were purchased in part by the Town that would allow the Town contiguous-land ownership for multiple town uses, as mentioned by Chairman Haarde. Going forward the process must be transparent, and a forum is needed to present to the Board of Selectmen.

Resident Jennifer Roberts, 14 Griffin Lane, stated that she was concerned about the ranking process because it did not properly capture the risk that Sudbury Station development presents. She would be interested in learning more about the 40B status in Town, and that planning ahead was critical. The Town center safety aspect must be taken very seriously, and a wrong decision cannot be made.

Resident Taryn Trexler, 253 Concord Road, also had issues with the ranking process, and was disappointed to see that the Planning office was not present at this meeting, and she would like to see the RFP interview meeting and determine if the RFP proponents would be cooperative with the Town, including how they might address traffic issues. Town Manager Rodrigues stated that the Town Planner was out sick today, which is why she was not in attendance. Ms. Trexler emphasized that all the safety issues in the center of Town remain whether the Town owns the land or a developer owns the land.

Resident John Riordan, 12 Pendleton Road, chairman of the Zoning Board of Appeals, stated his concerns about obligations associated with the sale of property, and felt that the Quarry North project might alleviate Sudbury Station concerns. He stated that as an attorney, the ability to deny 40B is not likely, and said that denial of this project would not prevent affordable units from coming to the center, but might provide some time. It is important for the Town to realize they're not in the real estate development business, and the citizens' quality of life includes factors of safety, schools, traffic, etc. He stressed that the Town does not have to seek out the highest bidder, necessarily, without considering many other factors. In his opinion, the Quarry North proposal would assist with the 40B status of the Town.

Resident William Wagner, 236 North Road, felt that the potential Sudbury Station in the center would result in severe congestion, and the Quarry North proposal would eliminate that situation. He added that discussion on this project might end up being a futile effort, and further input would probably be very similar to the input at today's meeting.

Resident Steve Swanger, 14 Bent Brook Road, thought it most important to get public input on this proposed project. This parcel is the last, or next to last, possible development for the Town and must be planned in the Town's best interest. There are three interesting proposals, all with questions to be addressed, and there will be a negotiating process with necessary adjustments and vetting from other Town Boards. He concluded that the final decision must benefit the Town and be handled in an open and transparent manner.

Christopher Claussen, developer for Quarry North, and owner of property on Concord Road, said that his project represents an opportunity to collaborate with the Town, and come up with a positive alternative. He plans to meet with the Board of Selectmen and other Boards in order to come up with something collaboratively, and looks forward to answering any questions that might come up in this process. Everyone concerned wants a final product to be proud of.

Chairman Haarde stated that the RFPs were received on July 2, 2018. This is the first time the Board has met to discuss the proposals, and he did not want to wait to meet until the next Selectmen's meeting on August 14 to proceed. He understands that it is important to proceed with caution, and that transparency is key which is why the Selectmen's tallies are displayed at this meeting. He understands the recommendation for moving slowly, being transparent, and involving everyone in the decision-making process. He suggested linking today's minutes with SudburyTV and distribute the minutes to all Town boards/committees and department heads, and further recommends that these groups include this topic on their agendas for discussion or vote, as they see fit. He also added that a Town Forum would also be planned for.

Town Manager Rodrigues commented that the Town Forum could be scheduled after the applicant interviews when more information would be provided. Town Manager Rodrigues stated that following the interviews, planning for the rest of the process will begin.

Selectman Simon asked about the timeframe. Town Manager Rodrigues replied that she would start the calendaring process now, and would get legal updates as well. Fall Town Meeting would take place on October 15, 2018, and preparations would be made for the related Warrant questions and mentioned a possible preparation timeline of three weeks aiming for the beginning of September. Selectman Simon questioned if this timeline was doable, especially keeping in mind that part of the Melone property lies in Concord. Chairman Haarde stated that the process will not be rushed.

Town Manager Rodrigues maintained that fifteen acres of the Melone property are part of Concord, and the Town would be going through Concord boards and commissions, including zoning, and stated that a portion of related financial considerations go to Concord, such as taxation and revenues. Selectman Simon said that this presents a rather complex situation with some degree of tax division between Concord and Sudbury.

An unidentified female attendee asked if the proposals specified any housing on the Concord land. Town Manager Rodrigues replied not. Chairman Haarde added that if there were any such building the developer would have to present to the Town of Concord in order to be granted a permit.

Resident Susan Wagner, 236 North Road, asked if the interview session would be open to the public. Chairman Haarde affirmed that it would.

Selectman Brown said that the interview time might be similar to the timing of today's meeting.

It was on motion unanimously

VOTED: To approve Town Manager to move forward with the scheduling associated with the Melone Property RFPs.

Selectman Simon inquired about the Melone project heading being put on the Sudbury website, and Town Manager Rodrigues replied that Melone now has its own section on the website.

**Vote to close Open Session and enter into Executive Session**

It was on motion unanimously

VOTED: To close Open Session and enter into Executive Session to conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct contract negotiations with nonunion personnel (Town Manager contract) pursuant to General Laws chapter 30A, §21(a)(2). Also, discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares (Lincoln Lane), pursuant to General Laws chapter 30A, §21(a)(6).

At 3:42 p.m., Chairman Haarde resumed open session meeting.

**Discussion and vote on Town Manager contract discussed during Executive Session**

Selectman Simon stated that he and Vice-Chairman Carty served as a subcommittee handling negotiations with the Town Manager regarding her employment contract. Both he and Vice-Chairman Carty received input from Town Manager Rodrigues and utilized the Board's Town Manager Evaluation, which was completed several months ago. The Evaluation produced very high recommendations for the Town Manager, and the subcommittee also examined Town Manager contracts in surrounding towns and eight or nine local towns are now seeking a new Town Manager. Selectman Simon maintained that the contract process with Town Manager Rodrigues was cooperative and fairly expeditious. He added that there was some give and take in negotiations, and the Town Manager agreed to the contract. Selectmen Simon referenced Exhibit A, which outlined the Town Manager's three-year contract, and modification of the vacation aspect of the contract was agreed upon specifying 30 days of vacation for consistency.

Selectman Simon said that it was a pleasure working with Vice-Chairman Carty and Town Manager Rodrigues on the contract process and the three-year contract would be approved by the Board at this open session meeting.

It was on motion unanimously

VOTED: To approve the Town Manager Contract – Exhibit A, as agreed to with Town Manager; and the modification from six-week vacation, to thirty days of vacation.

Chairman Haarde said that the contract is consistent with other salary-merit increases that other Town employees are receiving, and these contracts ensure that employees are paid competitively with the Town retaining the best staff, and is fair across the board regarding annual increases.

Vice-Chairman Carty thanked Selectman Simon for his work on the contract, and he also thanked Town Manager Rodrigues for her efforts.

Selectman Simon mentioned that he would like the Town Manager's thoughts in regard to extending the three-year employment contract perhaps to four or five years, and suggested reviewing the contract in the spring.

Town Manager Rodrigues responded that she is happy in her position, and is pleased to extend such a contract. Selectman Simon asked that Town Manager Rodrigues remind the Board in April or May to review the contract. Town Manager Rodrigues suggested that at if the contract were to be extended in the spring, creating a new contract rather than amending the existing contract would be preferred. The Board was in agreement with that recommendation.

**Vote to approve the regular session minutes of 6/19/18**

Because Board members did not receive the 6/19/18 minutes, a vote on approval was postponed.

There being no further business, the meeting adjourned at 3:49 p.m.

Attest: \_\_\_\_\_

Melissa Murphy-Rodrigues  
Town Manager-Clerk