

## SUDBURY BOARD OF SELECTMEN

TUESDAY, APRIL 28, 2020

(Meeting can be viewed online at [www.sudburytv.org](http://www.sudburytv.org))

Present: Chairman Daniel E. Carty, Vice-Chairman Patricia A. Brown, Selectman Janie Dretler, Selectman Jennifer Roberts, Selectman William Schineller, Town Manager Henry Hayes, Jr., and Assistant Town Manager Maryanne Bilodeau.

The statutory requirements as to notice having been complied with, the meeting was convened at 7:00 p.m. via Zoom teleconference mode. Chair Carty called the meeting to order.

### **Opening Remarks by Chairman**

Chair Carty announced:

- Governor Baker extended the “stay at home” advisory to May 18, 2020.
- LSRHS boys’ hockey team attained State Championship finalist standing with Canton.
- The Warzynski brothers of 106 Old Garrison Road completed a 26-mile relay marathon in their yard and raised nearly \$5000 to provide food for front-line COVID-19 workers.

### **Reports from Selectmen**

Vice-Chair Brown provided detail regarding the recent FinCom (Finance Committee) meeting, which she attended via Zoom. She mentioned that LSRHS received the Excess and Deficiency Certification.

Selectman Roberts commented that she attended last night’s FinCom meeting, and she and Selectman Dretler attended the Board of Health (BOH) meeting earlier today.

Selectman Dretler stated that she attended the recent Commission on Disability meeting, noting that Chapter 64 of the Acts of 2020 – The Liability Protections for Health Care Workers and Facilities, was discussed. Selectman Dretler stated that she attended the FinCom meeting last night, and has been attending the weekly BOH meetings.

Selectman Schineller stated that he attended the recent Conservation Commission meeting. He thanked Assistant Town Manager Bilodeau and Town Manager Hayes for their guidance.

### **Reports from Town Manager**

Town Manager Hayes affirmed his support of Town employees stating that the Town’s posture remains the same during these difficult times.

### **Health Director Bill Murphy to provide update on COVID-19**

Present: Bill Murphy, Health Director

Mr. Murphy stated that the Town had a total of 90 COVID-19 cases this week - 75 confirmed and 15 identified by clinician diagnosis. There has been a significant increase of COVID-19 cases at senior living facilities in town, and commended the administrators and staff at those facilities.

Mr. Murphy announced that BOH has officially mandated use of masks in essential indoor businesses, primarily stores. The mask mandate will officially go into effect tomorrow, will likely take several days to implement, and fines will be enforced. Mr. Murphy assured there would be outreach, increased posting/signage, and Town website announcements regarding the mandate. He stressed that Governor Baker did extend the “stay at home” advisory to May 18.

Mr. Murphy emphasized that wearing of masks outside would not be mandated unless a six-foot safe distance would not be possible. He indicated that at this time, gatherings such as graduation or Town Meetings/Elections would pose a huge risk.

Vice-Chair Brown explained that she received a resident inquiry regarding contact tracing apps. Mr. Murphy responded that contact tracing is being done manually at this time.

Selectman Roberts opined that the mask mandate was necessary, and inquired about proper mask usage. Mr. Murphy responded that proper usage must include the covering of mouth and nose. He stated that related information could be found on the Town website, and noted that in the absence of a face mask, a bandana or scarf could be used.

Selectman Dretler stressed the importance of social distancing and expressed appreciation regarding BOH mandates and recommendations.

Resident Len Simon, 40 Meadowbrook Circle, asked if the mask regulation would take place immediately, and asked if BOH could provide masks for residents. Mr. Murphy responded that the mandate would go into effect tomorrow and masks were being distributed for health personnel only.

#### **Citizen's comments on items not on agenda**

There were no citizen's comments

#### **Presentation on Conservation Commission Town Meeting articles**

Present: Lori Capone, Conservation Coordinator, ConCom (Conservation Commission) members: Chair Tom Friedlander, Charlie Russo, Dave Henkels, and Richard Morse.

Mr. Friedlander presented Conservation Commission Articles 39, 40, and 41. He explained that several years ago, the Town purchased the Libby and Dickson parcels, which were transferred to the Town rather than to the Conservation Commission. Mr. Friedlander requested that the Town transfer the properties to ConCom and then ConCom would ask that the Sudbury Valley Trustees to hold a conservation restriction on these parcels.

Selectman Schineller asked what "contract out" meant. Mr. Friedlander responded that another official entity, such as the Sudbury Valley Trust (SVT), would hold the parcel restriction to ensure the parcel is not used for any other purposes. Vice-Chair Brown commented that the parcels were acquired in 2005, and asked why this exchange was happening now. Ms. Capone responded that the exchange was in process and was delayed. Chair Carty mentioned the delay and expressed his relief to see closure.

Mr. Friedlander added that his property abuts both parcels, and stressed the importance of the Board supporting the articles. Chair Carty and Selectman Dretler agreed that Mr. Friedlander's relationship with both parcels might suggest a conflict of interest. Mr. Friedlander stated he is an abutter to Dixon and he would check to see if his property was within 300 feet of the lot line of Libby.

Mr. Russo explained that this transaction is standard procedure, despite what Mr. Friedlander's situation might be. Chair Carty affirmed that the SVT serves as a steward for other parcels in Town.

Selectman Schineller inquired about historical features. Ms. Capone responded the Dickson parcel does maintain historic vista and allows for archeological digs, though nothing of significance was identified on the parcels.

Ms. Capone stated that the Brimstone Lane parcel was different, and was dedicated to the Conservation Commission in the 1970s. A portion was to be conveyed to the Aronson family, which did not happen. The attorney for the Aronson family suggested the exchange of real property, as depicted in the certified plan dated October 16, 2019.

Assistant Town Manager Bilodeau asked Ms. Capone if Town Counsel had reviewed the Brimstone Lane parcel. Ms. Capone replied affirmatively.

Selectman Schineller asked if ConCom had voted unanimously on the three presented articles. Mr. Russo stated that the vote was unanimous on two of the three articles, with the exception of the Brimstone Lane article. Mr. Russo detailed that he voted against the Brimstone Lane exchange, because he wanted additional information. He opined that granting that strip of land could potentially offer frontage to allow for a second parcel.

Vice-Chair Brown noted that Town Counsel had reviewed the article. Ms. Capone reiterated that Town Counsel reviewed the article and had no concerns.

Selectmen Dretler, Schineller and Roberts maintained they wanted to study the Brimstone Lane article, before voting.

*Conservation Commission Articles*

Article 40 – Transfer Care & Custody of Town-Owned Water Row parcel to Conservation Commission (H11-401)

It was on motion unanimously

VOTED: To support Transfer Care & Custody of Town-Owned Water Row parcel to Conservation Commission (H11-401)

Article 41 – Transfer Care & Custody of Town-Owned Water Row parcel to Conservation Commission (H11-305)

It was on motion unanimously

VOTED: To support Transfer Care & Custody of Town-Owned Water Row parcel to Conservation Commission (H11-305)

**Review Town Meeting articles, possibly take positions on articles, and assign motions and presentations**

Present: Police Chief Scott Nix and Dan Nason, Director of Public Works

Chair Carty detailed that petitioner Bruce Porter, 42 Surrey Lane, presented the bicycle safety article to the Board and had been working on the signage with Public Safety and DPW for some time.

Chief Nix stated that he would like to look at the bicycle safety signage petition holistically and not limit safety provisions/signage to Hudson Road. He felt that combining the Complete Streets project with bicycle safety would reflect a more comprehensive planning approach.

Mr. Nason informed the Board that a Town-wide signage inspection took place, and out of 1,248 signs assessed, only 52% do not comply with the MUTCD (Manual on Uniform Traffic Control Devices) standard, and Mr. Porter's proposed signage did not meet the MUTCD standard. Mr. Nason maintained that such signage might provide a false sense of security and opined that it would be preferable to consider specific safe streets for cyclists, and work in concert with Complete Streets planning.

Selectman Roberts stated that she was sympathetic with Mr. Porter's request for bicycle safety, and wanted to know when public safety would create a comprehensive sign safety plan. Chief Nix responded that the Board of Selectmen, the Planning Board, and other Town groups might initiate direction and set priorities regarding bicycle safety and signage.

Selectman Schineller asked about recently implemented signage. Chief Nix responded that "do not enter" signage was implemented recently and was approved by the Selectmen.

Selectman Schineller asked if there were legal ramifications associated with signage (or lack of) and example a serious cycling accident on Hudson Road some years ago. Chief Nix responded that signage would not have helped in that case, and the accident was not the fault of the driver.

Vice-Chair Brown asked if additional Board involvement would help. Mr. Nason stated that all signage decisions were brought before the public safety officials and the Planning Director for input before installation of signs. Mr. Nason stated that he would welcome such input by the Board if they chose to be an active part of that process.

Selectman Dretler queried about the bicycle safety sign on Rte. 20. Chief Nix responded that such signage on Rte. 20 might not be a fair comparison to signage proposed for Hudson Road. He suggested that related direction/prioritization by the Board might be helpful.

Selectman Dretler commented that she participated in the Complete Streets Working Group discussions, and noted there were very few bike safety proposals. She indicated that she would like to learn more about the MUTCD signage regulations.

Mr. Porter acknowledged the bicycle safety sign on Rte. 20 asserted that he used the same language on his proposed sign. He noted that he had been discussing such bicycle safety signage for several years. He affirmed that his petition proposes to use the same language as the sign on Rte. 20. He stated that he appreciated the suggestion of a more holistic approach by both Chief Nix and Mr. Nason, but maintained that such progress has been slow, and his signage is a reach-out for bike safety.

#### *Petition Article*

#### Article 53 – Bicycle safety road signs

It was on motion, two no and three in favor (3-2); Carty-no, Dretler-aye, Roberts-aye, Schineller-aye, and Brown-no.

VOTED: To support Article 53 – Bicycle safety road signs

#### **Discussion on 2020 Annual Town Meeting date and timeline. Also discussion on Annual Town Election and Special Town Election date**

Present: Beth Klein, Town Clerk, and Lauren Goldberg of KP Law

Town Manager Hayes announced that there was an opportunity to schedule Spring Town Meeting on June 15 and a Town Election on June 23.

A discussion regarding a possible Fall Town Meeting took place. Chair Carty maintained that he did not want to jeopardize anyone's health, but felt unsure about a Fall Town Meeting.

Ms. Goldberg explained that special legislation could be implemented which would allow more scheduling choices for the Town. She stated that the Town Meeting Moderator could issue a Recess and Continuation Declaration (MGL Part 1, Title V11, Ch. 39, Sec. 10A), if the public safety situation remained the same.

Ms. Klein asked if the Recess and Continuation Declaration could be repeated. Ms. Goldberg responded affirmatively.

Ms. Goldberg emphasized that state legislators would likely be flexible, and the MA Department of Revenue would work with communities. In that light, she recommended that communities do not request large capital items at a Spring Town Meeting.

Resident and FinCom member, Susan Berry, 4 Dawson Drive, asked if free cash would be available for a Town Meeting scheduled after June. Ms. Goldberg affirmed that free cash would be available for the FY21 budget.

Selectman Dretler motioned to hold the Annual Town Meeting on September 15, 2020. Selectman Schineller seconded the motion.

It was on motion unanimously

VOTED: To hold the Annual Town Meeting on September 15, 2020.

Chair Carty reiterated that he was somewhat uneasy about a September Annual Town Meeting.

Selectman Schineller opined that a September Town Meeting would provide more time for assessment of the financial/economic situation.

Selectman Dretler inquired about the concerns of Chair Carty. Chair Carty responded that he had issue about possible risk associated with implementing a 1/12th budget for three or four months, and indicated that scheduling a July Town Meeting might avoid such risk.

Selectman Dretler mentioned the possibility of a second COVID-19 wave in the Fall. Vice-Chair Brown stated that an August Annual Town Meeting could be considered.

Chair Carty asked about conducting a “safe” Town Election. Ms. Klein stated that by utilizing mail-in ballots, a limited amount of voters would be coming to the polls. She suggested that the Board might consider decreasing operating hours of Town voting sites.

Town Manager Hayes stated that he received calls regarding voting outdoors. Ms. Klein stated that voting outdoors would be difficult in consideration of the voting machines. Selectman Roberts noted that she wanted to hear more about outdoor voting.

Vice-Chair Brown asked if ballots had been printed. Ms. Klein responded that ballots had been printed, and could be used for the upcoming election. She affirmed that some absentee ballots had been sent.

Ms. Klein suggested publishing Town Election details in the Town Crier, Town Website, social media, Reverse 911 call message, and mailing absentee voting applications to each household. Ms. Goldberg reiterated that ballots could not be mailed without a completed application and voter signature.

Ms. Klein stated that Deb Galloway, Director of COA (Council on Aging) had concerns about holding an election staffed by older workers. She suggested that the Board wait an extra week before scheduling the date for the Town Election.

Resident Charles Russo, 30 Juniper Road, stated that health and safety was the first priority, and asked about the ballot procedure. Ms. Goldberg stated that returned ballots would be counted on the day of election, and applications could be mailed or e-mailed. Ms. Klein stated that ballots could not be signed online but could be scanned.

Mr. Murphy stated that he wanted a week to assess the situation before the Board voted on a Town Election date.

Chair Carty summarized that before the Board scheduled a Town Election date, the following items would be addressed at the May 5<sup>th</sup> meeting:

- Staff to present a detailed communication plan
- Adequate and appropriate staffing plan for voting sites
- Feedback and approval of BOH

Resident Len Simon, 40 Meadowbrook Circle, suggested at the next meeting, the Board provide the public with voting timeline requirements, and other relevant information at their next meeting..

**Review and discussion of the revised FY21 budget, free cash, revised revenue projections, etc.**

Present: Dennis Keohane, Finance Director

Town Manager Hayes presented the FY21 Summary of Budget Changes due to Pandemic dated April 23, 2020. He highlighted the following expenditures:

- Total Town Departments
- Total Operating Budget (Town Debt Service, Employee Benefits (Town and SPS) and OPEB Trust Contribution (Town and SPS))
- Capital Budget

Town Manager Hayes referenced FY20 Estimated Free Cash Usage dated April 23, 2020. Town Manager Hayes stated that the Town had an obligation to contribute to OPEB, and he would not recommend deferring such payment.

Vice-Chair Brown commented that the financials were discussed at the recent FinCom meeting. Selectman Roberts inquired about possible revenue shortfall.

Finance Director Dennis Keohane stated that he considered the financially distressed period reflected in the FY09 and FY10 budgets when he formulated the proposed budget.

Selectman Dretler inquired about a letter from FinCom as mentioned at the FinCom meeting. Town Manager Hayes stated he did not recall receiving the letter. Chair Carty opined that the letter may have come during the Town Manager crossover. Chair Carty stated that the letter advocated for a conservative approach. He asked if the proposed budget could be reworked since the Town Meeting would not be held until the Fall. Town Manager Hayes affirmed that various capital items could be deferred until the Fall, and there would be an opportunity to make additional adjustments.

Mr. Keohane confirmed that the budget would likely change with inclusion of added adjustments. He stated that DLS (Division of Local Services) will be present at the May 5<sup>th</sup> Board meeting.

Chair Carty commented that DLS would likely be focusing on long-term financial strategies, and not on current emergency funding options. Chair Carty summarized that FinCom advocated for maintaining OPEB payments. Chair Carty suggested allotting stabilization funding and free cash for expenses, and not use those funds for citizen petitions this critical time. He commented that the \$3 million+ overlay funding could be redirected to keep the Town running.

Resident Len Simon, 42 Meadowbrook Circle, stated that it was wrong to use stabilization funding to cover budget expenses in an attempt to avoid funding for citizen's petitions.

Resident and FinCom member Bryan Semple, 15 Revere Street, stated that historically, free cash is not recommended to fund revenue, but in such critical times, it might be necessary to do so. He suggested utilizing free cash to cover three-year related expenses in the areas of health care and COVID-19.

SPS Superintendent Brad Crozier stated that by Memorial Day, SPS staff must know if they are coming back to work in the Fall, and that the Town is on track with these commitments.

Chair Carty asked about the recent SPS School Committee meeting and inquired about the transportation contract. Mr. Crozier responded that the School Committee voted not to fund a joint contract with LSRHS.

**Town Meeting petition article presentation on Bruce Freeman Rail Trail**

Present: Petitioner Len Simon, 40 Meadowbrook Circle

Resident Len Simon recommended delaying his presentation regarding the Bruce Freeman Rail Trail (BFRT) petition until the Town had more information regarding the BFRT design plan.

The Board agreed with Mr. Simon's recommendation.

**Town Meeting petition article presentation on Burying Underground Utility lines**

Present: Petitioner Girish Pathak, 104 Marlboro Road

Mr. Pathak presented his PowerPoint presentation: "Proposed Cost-Benefit Study Project – Burying Utility Cables (BUC)."

Mr. Pathak stated that the article requested a cost-benefit study to assist in providing improved utility services for residents. Mr. Pathak said the benefits associated with the documented cost-benefit study would help eliminate utility outages, improve road access, provide cost savings, and improve roadside appearance.

Selectman Schineller asked if grants might be available to help fund the project. Mr. Pathak responded there were, in the \$5,000 to \$15,000 range. Selectman Schineller acknowledged that a study was needed before residents could vote on the article at Town Meeting, as he recalled from his own utility research.

Selectman Dretler asked if other communities had implemented similar projects. Mr. Pathak responded that the towns of Needham and Concord had done so.

Mr. Nason commented that he, Assistant Town Manager Bilodeau, and Director of Planning and Community Development Adam Duchesneau met and agreed there might be opportunity for the petition, but questioned the timing and depth of the study. He stressed that the Town has many ongoing projects at this time.

Selectman Dretler opined that the Planning Department might not have the capacity for the project.

Vice-Chair Brown commented that identifying possible hot spots would be beneficial.

Selectman Schineller asserted that the study was worthwhile, and would be relatively inexpensive.

Selectman Roberts suggested following up with the Planning & Community Development staff before taking a position on the petition. Board members agreed to resume consideration of the article at the next meeting.

**Review and possibly vote to approve regular session minutes of 3/24/20 and 3/31/20**

Selectman Dretler moved and Vice-Chair Brown seconded the motion.

It was on motion unanimously

VOTED: To approve the 3/24/20 Board of Selectmen minutes as amended.

Selectman Schineller moved and Vice-Chair Brown seconded the motion.

It was on motion unanimously

VOTED: To approve the 3/31/20 Board of Selectmen minutes as amended.

**Consent Calendar**

**Vote to approve FY21 Transfer Station Sticker rates**

It was on motion unanimously

VOTED: To approve the FY21 rates for the Transfer Station Stickers as recommended by the Public Works Director, who is advising to leave the fees at the FY20 levels.

**Vote to Grant a Special Permit to Bikes Not Bombs to Hold the “33rd Annual Bike-A-Thon” on Sunday, June 14, 2020, from 11:00 A.M. through approximately 3:00 P.M**

Board members discussed the item in terms of current social distancing and agreed to request approval from the Board of Health.

It was on motion unanimously

VOTED: To Grant a Special Permit to Bikes Not Bombs to Hold the “33rd Annual Bike-A-Thon” on Sunday, June 14, 2020, from 11:00 A.M. through approximately 3:00 P.M., subject to Police Department safety requirements, Proof of Insurance Coverage and the assurance that any litter will be removed at the race’s conclusion, subject to Board of Health approval.

**Vote to approve for FY21 the annual or renewal DPW contracts awarded and previously approved for FY20, or to be awarded in FY21 on a Fiscal Year basis or Calendar Year basis by the Town Manager in accordance with procurement requirements and as reviewed by Town Counsel**

It was on motion unanimously

VOTED: To approve for FY21 the annual or renewal DPW contracts awarded and previously approved for FY20 or to be awarded in FY21 on a Fiscal Year basis or Calendar Year basis by the Town Manager in accordance with procurement requirements and as reviewed by Town Counsel.

**Vote to ratify and adopt the Specifications for Regulating Construction within Public Ways**

It was on motion unanimously

VOTED: To ratify and adopt the Specifications for Regulating Construction within Public Ways, promulgated and administered by the Sudbury Public Works Department.

**Vote to accept an anonymous flower donation**

It was on motion unanimously

VOTED: To accept an anonymous donation of flowers to be given to health care workers on behalf of the Town.

**Citizen’s comments on items on agenda**

There were not citizen’s comments

**Upcoming Agenda Items**

Board requests for future agenda items not included in the Upcoming Agenda Items:

*May 5, 2020 Meeting*

- Continued discussion of Town Meeting petition article – Burying Underground Utility Lines
- Continued discussion/on tabled agenda topics: Item 7 – Review Town Meeting articles, Item 8 – Discussion and possible vote on updated consent calendar items for Town Meeting warrant articles, and Item 10 – Discussion on the Fairbank Community Center/Town Forum.
- Executive Session meeting at 6:00 p.m. regarding CSX corridor and Executive Minutes.

**Vote to adjourn meeting**

Vice-Chair Brown motioned to adjourn the meeting. Chair Carty seconded the motion.

It was on motion unanimously

VOTED: To adjourn meeting

There being no further business, the open meeting adjourned at 11:15 p.m.

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

Henry L. Hayes, Jr.

Town Manager-Clerk

## **Documents & Exhibits – 4/28/20**

2. Review and discussion of the revised FY21 budget, free cash, revised revenue projections, etc.

### **Attachments:**

- 2.a FY21 Summary of Budget Changes due to Pandemic 4-23-2020
- 2.b FY21 Estimated Free Cash Usage 4-23-2020
- 2.c FY21 Sudbury Updated Budget 4-27-2020

4. Presentation on Conservation Commission Town Meeting articles by Lori Capone, Conservation Coordinator, and Tom Freidlander, chairman. Also attending are ConCom members Charlie Russo, Dave Henkels, and Richard Morse.

### **Attachments:**

- 4.a ConCom Warrant Articles 2020TM PPT

5. Town Meeting petition article presentation on Bruce Freeman Rail Trail by resident Len Simon.

### **Attachments:**

- 5.a EXPEDITE COMPLETION OF DESIGN OF BRUCE FREEMAN RAIL TRAIL
- 5.b REPORT FOR non-binding article for town manager and staff.6 WITH OUT file name.
- 5.c Len Simon\_BFRT

6. Town Meeting petition article presentation on Burying Underground Utility lines by resident Girish Pathak.

### **Attachments:**

- 6.a Petition Article\_Pathak\_ Buriying Utility Cables
- 6.b Study to bury overhead power lines

7. Review Town Meeting articles, possibly take positions on articles, and assign motions and presentations.

### **Attachments:**

- 7.a Articles list ATM 2020 04.29.20 Version
- 7.b Nason\_email\_dutton easement
- 7.c S5013-002-C-DSGN-ROW Plan3\_Solid Hatch
- 7.d warrant\_article\_re\_\_Meadow\_Walk\_-\_alc\_\_license\_special\_act\_\_
- 7.e Fw\_ Sudbury Liquor License
- 7.f Select Board Memo 4-6-2020\_Porter\_petition\_article

8. Discussion and possible vote on updated consent calendar items for Town Meeting warrant articles

### **Attachments:**

- 8.a Consent\_Calendar\_list\_EJones

9. Review and possibly vote to approve regular session minutes of 3/17/20 and 3/20/20.

### **Attachments:**

- 9.a BOS\_draft1\_3.24.20\_for\_review
- 9.b BOS\_draft1\_3.31.20\_min\_for\_review

## **12. Upcoming Agenda Items**

### **Attachments:**

12.a POTENTIAL UPCOMING AGENDA ITEMS\_4\_28\_20

**14.** Vote to Grant a Special Permit to Bikes Not Bombs to Hold the “33rd Annual Bike-A-Thon” on Sunday, June 14, 2020, from 11:00 A.M. through approximately 3:00 P.M., subject to Police Department safety requirements, Proof of Insurance Coverage and the assurance that any litter will be removed at the race’s conclusion.

### **Attachments:**

14.a Bikes Not Bombs 6.14.20\_Application\_BOS

14.b Bike not Bombs Approvals 2020

**16.** To ratify and adopt the Specifications for Regulating Construction within Public Ways promulgated and administered by the Sudbury Public Works Department.

### **Attachments:**

16.a Old Guidelines for Constr in ROW

16.b Construction within a Right of Way 04.13.20