

SUDBURY BOARD OF SELECTMEN

TUESDAY JULY 28, 2020

(Meeting can be viewed at www.sudburytv.org)

Present: Chair Daniel Carty, Vice-Chair Patricia Brown, Selectman Janie Dretler, Selectman Jennifer Roberts, Selectman William Schineller, Town Manager Henry L. Hayes, Jr.

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

Chairman Carty called the meeting to order after being in executive session and resuming in open session.

Roll Call and Opening Remarks by Chairman

Roll Call: Brown-aye, Dretler-aye, Schineller-aye, Roberts-aye, Carty-aye, Hayes-aye

Chair Carty announced:

- Property and Personal Taxes are due August 3
- Board of Selectmen Office Hours tomorrow at 10:00 a.m. to 11:00 a.m. via ZOOM. Chair Carty and Vice-Chair Brown will be present
- Town Manager Office Hours on July 30, 8:30 a.m. to 9:30 a.m. via ZOOM
- School Department working on school opening plan.
- Sudbury Public Schools being awarded \$25,000 grant for installation of remote serving work stations
- The passing of Maryanne Bilodeau's cherished daughter, Laurie

Reports from Town Manager

Town Manager Hayes announced:

- State Primary Election – September 1, 2020
- Real Estate & Personal Property Taxes are due August 3
- Board & Committee openings – applications due by August 24, 2020
- Spent time with Eversource representative examining the rail beds
- Daughter of Assistant Town Manager/HR Director Maryanne Bilodeau, Laurie Joanne Bilodeau, passed away on July 23rd and in lieu of flowers, donations in her memory may be made to Boston Children's Hospital, Neurology Foundation, 300 Longwood Avenue, Fegan 11, Boston, MA 02115 or to St. Jude Children's Research Hospital, 501 St. Jude Pl. Memphis, TN 38105-9959 or at stjude.org/memorial.
- For FY21 Boston Children's Hospital is creating the "Laurie Bilodeau Award for Kindness and Excellence."
- DPW service island construction has commenced
- Police Department assisting with the Maynard Deputy Chief hiring process
- Suggested continued vigilance regarding identity theft
- Met with ICON architects regarding the Fairbank design presentation points
- Visited the Haynes Meadow House and toured the Loring Parsonage
- Toured five Sudbury schools with Superintendent Crozier
- COVID-19 cases on the increase (including Sudbury), record numbers are seen in various areas, and associated MA hospitalizations have increased.
- Advocated for continued COVID-19 vigilance by wearing face coverings, distancing and hand-washing.

Vice-Chair Brown stated that the Finance Committee (FinCom) reviewed the Town Manager's Budget and have made recommendations and are setting up their own recommended budget.

Selectman Dretler expressed her deepest condolences to the Bilodeau family. Selectman Dretler attended the State Ethics Conflict of Interest session last week. She also mentioned that she took a walk on the town trails in Wellesley and noticed the COVID-19 signage along those trails and expressed interest in having similar signage in Sudbury.

Selectman Roberts expressed her condolences to the Bilodeau family. She reiterated the Town Manager's recommendation to continue to be vigilant and extend precautions to travel as well. She attended the FinCom meeting last night. Three members voted in favor of the Town Manager's budget, four voted against and one member abstained; which would enable FinCom to draft their own budget if they chose.

Selectman Schineller expressed his sincere condolences to Maryanne Bilodeau for her loss.

Citizen's comments on items not on agenda

There were no citizen's comments

Open public hearing for discussion and vote whether there is a need for a fall town meeting in accordance with Town Bylaw Article 1 Section 3

The Board discussed the possibility of a fall town meeting.

Chair Carty motioned and Vice-Chair Brown seconded the motion.

It was on motion, 5-0; Schineller-aye, Brown-aye, Dretler-aye, Roberts-aye, Carty-aye

VOTED: That there was no need for a fall town meeting in accordance with Town Bylaw Article 1 Section 3.

Vote to modify wording of the CSX town meeting article #17 to match the ballot question

Present: Lauren Goldberg, KP Law, and Lee Smith, Town Counsel/KP Law

Chair Carty acknowledged that because the Board was still negotiating in executive session, modifying wording of motion for Article 17 – CSX Corridor, would not be recommended.

Ms. Goldberg mentioned it would be appropriate to address the scope of the Article when making a motion on the floor of Annual Town Meeting. She recommended that the map correction and grammatic-type corrections should be made at this time which has nothing to do with the substance of the article.

Selectman Roberts stated that she would recommend extending the scope of the Article in consideration that the CSX corridor is in proximity to conservation lands, wetlands, and in the water supply zone. Selectman Dretler agreed with Selectman Roberts.

Resident Len Simon, 40 Meadowbrook Circle, questioned the motion language for Article 17, and inquired if the motion could possibly be changed in the warrant. Mr. Simon asked the Chair if the narrower scope in the word of the proposed main motion was going to be the same language that is in the reworded ballot question.

Selectman Dretler asked why the scope of the main motion would be made narrower. Chair Carty responded that such language was voted on by the Board at the last meeting to change the ballot question wording. If changes were desired, it would have to be reflected in the main motion. He stated that there would be no substantive changes voted on at this meeting.

Vice-Chair Brown recommended that the Board allow Town Manager Hayes to correct the map reference on the Town Meeting Warrant. Vice-Chair Brown motioned to allow Town Manager Hayes to correct the map reference and date on the Town Meeting Warrant Article.

Town Manager Hayes confirmed that there were several sections in the Warrant with minor technical inaccuracies which should be corrected.

Chair Carty motioned and Selectman Roberts seconded the motion.

It was on motion, 5-0; Dretler-aye, Brown-aye, Roberts-aye, Schineller-aye, Carty-aye.

VOTED: To allow Town Manager Hayes to make the minor changes to Article 17 of the Town Meeting Warrant.

VOTE: Shall the Town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to acquire the parcel of land shown as Mile Post QBS 3.40 to QBS 4.80 on a Railroad Map dated July 22, 2020 prepared by CSX Transportation, Inc., and a Plan dated July 20, 2020, copies of which are on file with the Town Clerk, consisting of 11.26 acres of land, more or less and any and all incidental and related costs associated therewith?

Chair Carty stated that this vote was taken at the last BOS meeting and now the change regarding map must be recognized. He detailed that the change in language read: "Railroad Map dated July 22, 2020."

Town Manager Hayes confirmed that such language was the only change made to the article as a result of the last BOS meeting.

Attorney Smith stated that the reason for change was material submitted by CSX was not received until last Friday.

Selectman Roberts asked the Board to reconsider their related vote made at the previous BOS meeting.

Selectman Roberts motioned and Selectman Dretler seconded the motion.

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

VOTED: Not to approve that the Town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to

acquire the parcel of land shown as Mile Post QBS 3.40 to QBS 4.80 on a Railroad Map dated July 22, 2020 prepared by CSX Transportation, Inc., and a Plan dated July 20, 2020, copies of which are on file with the Town Clerk, consisting of 11.26 acres of land, more or less and any and all incidental and related costs associated therewith for any and/or all of the following purposes: establishment and construction of a multi-purpose rail trail, bicycle path for open space, conservation and active recreation purposes, water resource area preservation and general municipal purposes.

Selectman Roberts stated that she was not comfortable with the language approved by the Board at the last meeting and stressed that it was always beneficial to include the purpose for a purchase. She indicated that this Town Meeting will be very unusual in consideration of COVID-19 and there may not be enough context for voters to make an informed decision.

Selectman Dretler stated that she did not agree with the motion voted upon at the last meeting to remove descriptive language from the ballot and stressed the importance of residents understanding the necessary information as the majority of voters will be voting by mail.

Selectman Dretler referenced the reasons justifying the CSX parcel purchase at the 2008 Town Meeting, which was itemized by Debbie Dineen, former Conversation Coordinator, and Town Meeting voted unanimously in support.

Selectman Dretler asserted those itemized considerations were still pertinent today and she read Ms. Dineen's list:

- "If we don't buy it, CSX can sell it on the open market."
- "Buying the railroad will eliminate risk of water degradation and continual use of herbicides on ROW."
- "It was a low-cost solution to protect water supply, short money for huge protection. The parcel runs through Town's main drinking water supply area which is adjacent to well heads."
- "Provides access to conservation land."
- "Groundwater has been tested continuously at a high rate."
- "It was a one-time deal then. We have another opportunity now, 12 years later."
- "Sudbury won't take ownership if any contamination. We will need to soil test."
- "There are 5 wells located between 20' of the actual track bed and 3000' of the actual track bed."
- "Well 7, Sudbury's main water well is 20' from the ROW."
- "Wells 2, 6, 7, 9 are 1000'-3000' from the ROW."
- "It is located in Zone 1 and Zone 2."
- "Whatever we do will have to be compatible with water supply protection."
- "It will be a public trail immediately after closing."
- "The area of land that is managed by Conservation Commission and owned by the Board of Selectmen includes a 7-9 acres upland section which can currently only accessed by the rail bed."
- "One of a kind property. You cannot put together a linear corridor."
- "Ownership puts control in your hands."
- "There will be soil testing of rail bed. The ground water has been tested on a continuous basis. There are no contaminants."

Selectman Dretler said she believes those reasons still stand and the residents should understand them.

Mr. Simon agreed that residents should be provided with the additional language in order to maintain transparency and to fully understand what the money would be used for. He stated Attorney Smith recommended at the prior Board meeting to include the purposes for which the land could be used in his draft ballot question.

Resident Terry Snyder, 102 Barton Drive, affirmed that there was no reason to eliminate this information. Ms. Snyder stated that in the time of COVID that recreation was important, and it was also important to protect the town's water supply that it doesn't make sense for the Board to remove the purpose for the acquisition.

Resident Kirsten Roopenian, 45 Harness Lane, stated that she was uncomfortable with the associated vote last week. She opined about taking the presented language out of the vote at this week's meeting and favored including the language included in the motion made by Selectman Roberts. She queried about why such information would be left out.

Chair Carty motioned and Selectman Schineller seconded the motion.

It was on motion 5-0; Schineller-aye, Brown-aye, Roberts-aye, Dretler-aye Carty-aye.

VOTED: To modify Ballot Question 1 map language to reflect the July 22, 2020 date from 4/21/15.

Selectman Roberts stated that she did not subscribe to the "less is more" concept, adding that the "why" aspect of a purchase is important.

Attorney Goldberg stated that the vote had be taken by each Board member and sent to the State and a no vote did not necessarily mean that the project was not supported. She stated that the ballot question should refer to the correct map.

Mr. Simon asked about dollar amount omission, and opined regarding how the public might obtain that number. Ms. Goldberg spoke of debt exclusion language set by MA statute and the town could post information regarding the acquisition via a link on the town's website.

Selectman Dretler suggested adding the CSX information to the project list on the website. Ms. Goldberg responded that the town could do that and she would not recommend sending updates through a list serv as it could be perceived as influencing a ballot question.

Resident Charles Russo, 30 Juniper Road, expressed his frustration regarding the CSX ballot information being eliminated.

Selectman Dretler stated the Board should always try to provide as much information to residents as possible. Ms. Dretler stated that this was an attempt by members to squash information. She stated that she will support the ballot question as she supports the project.

Selectman Dretler stated, in response to Selectman Schineller, that Town Meeting was almost two months prior to the ballot vote at the November election.

Annual Town Meeting discussion on start time and backup date

Present: Town Meeting Moderator Beth Quirk, 20 Scotts Wood Drive

Town Manager Hayes informed the Board that the LSRHS venue would not be available to Town Meeting on September 13, but September 20th would be available as a backup date.

Town Manager Hayes acknowledged that he attended the LSRHS graduation on Saturday and observed the areas of sun and shade on the campus. He recommended that the meeting be started earlier in hopes that all Town Meeting business could be completed in one day.

Board members agreed that a one-day Town Meeting would be preferred.

Selectman Schineller recommended the one-day meeting be made as efficient as possible and noted that a backup meeting date would still be necessary, in the event of inclement weather. He suggested that articles would be indefinitely postponed (IPd).

Ms. Quirk strongly advocated for starting Town Meeting at 9:00 a.m. in consideration that September can be hot.

Selectman Roberts agreed with Ms. Quirk. Selectman Schineller opined about a break time to be provided during Town Meeting.

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

It was on motion 4-1; Dretler-aye, Roberts-aye, Brown-aye, Carty-aye, Schineller-no

VOTED: To hold Annual Town Meeting on Saturday, September 12, 2020 at 9:00 a.m. at LSRHS, with a backup date of Sunday, September 20, 2020 at 9:00 a.m. at LSRHS.

Presentation of ATM Proposed Zoning Bylaw Amendments - Articles #37 and #38

Present: Planning and Community Development Director Adam Duchesneau

Mr. Duchesneau presented Articles 37- Solar Energy Systems. He described the types of solar systems and associated regulations and definitions.

Article 37 – Solar Energy Systems

Selectman Schineller motioned and Chair Carty seconded the motion.

It was on motion 5-0, Dretler-aye, Roberts-aye, Schineller-aye, Brown-aye, Carty-aye

VOTED: To support Article 37 - Solar Energy Systems.

Mr. Duchesneau provided definitions and related criteria for the 10% Affordable Dwelling unit provision on a given development. He detailed aspects regarding types of affordable dwelling units. Fees-In-Lieu of units for fractional affordable units.

Mr. Duchesneau noted that a public hearing on Articles 37 and 38 was scheduled for August 12.

Article 38 – Inclusion of Affordable Housing

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

It was on motion 5-0, Dretler-aye Roberts-aye, Brown-aye, Schineller-aye, Carty-aye

VOTED: To support Article 38 – Inclusion of Affordable Housing.

Discussion and vote whether to sign a comment letter to MassDOT for BFRT

Present: Environmental Planner Beth Suedmeyer

Selectman Dretler presented the MassDOT comment letter regarding BFRT hearing which she drafted and recognized that Vice-Chair Brown submitted her draft comment letter and had also submitted her own citizen's letter to MassDOT.

Selectman Roberts suggested adding language to indicate the increase in travel on Hudson Road. Chair Carty agreed that inclusion of such language regarding the busy Hudson Road intersection was beneficial.

Selectman Schineller questioned how to emphasize Town involvement with the BFRT boardwalk design.

Chair Carty asked about the use of "abandoned" language.

Ms. Suedmeyer stated that a better use might be "not used." Chair Carty recommended inclusion of the abandonment aspect.

Selectman Dretler noted that other Town boards would also be submitting comment letters to MassDOT.

Charlie Russo, of the Conversation Commission, stated that the Commission had not yet voted on this topic, and noted that sonotubes had been used for such boardwalks and soil testing would determine the structural design.

Selectman Dretler clarified that the draft letter the Board was evaluating was not the latest draft. Selectman Dretler displayed the correct draft.

Selectman Dretler queried about when the decision on the design would be made.

Ms. Suedmeyer stated that a dialogue about the design would take place and if a boardwalk is mandated, the Town would be responsible for that aspect.

Chair Carty reiterated that the Town wants to be involved in the decision-making process regarding a potential boardwalk.

Ms. Suedmeyer stated that Planning and DPW have discussed the congestion issue.

Selectman Dretler motioned and Selectman Schineller seconded the motion.

It was on motion 5-0, Dretler-aye, Schineller-aye, Roberts-aye, Brown-aye, Carty-aye

VOTED: To send the BFRT comment letter as written and edited to MassDOT.

Discussion on Town Manager 90-day check-in, goals and 6-month evaluation

Chair Carty stated that a 30-day goal-setting discussion was supposed to have taken place, but in consideration of COVID-19 that did not. Vice-Chair Brown commented that Town Manager Goals and Selectmen Policies and Procedures had to be adjusted in presentation due to the COVID-19 priority.

Chair Carty suggested that Town Manager Hayes draft his goals and acknowledged that the Board owed Town Manager Hayes 90-day review suggestions and 6-month review with 360 assessment.

Town Manager Hayes agreed with Chair Carty's suggestion.

Selectman Roberts affirmed that the Board must consider the restraints due to COVID-19, and suggested that two Board members might work on review questions/outline.

Discussion and possible vote on the Fairbank Community Center Town Forum

Selectman Roberts confirmed that Vice-Chair Brown and she would coordinate the aspects involved with the planning of the Fairbank Community Center Town Forum.

Review Town Meeting article #18 (Fairbank) and possibly take position

Resident and Park & Recreation Commission member Mara Huston, 578 Peakham Road, asked about the number of Fairbank letters received by the Board. Chair Carty responded that a considerable amount of letters were received with approximately ten this week, and most letters indicate support of the project.

Selectman Dretler motioned and Chair Carty seconded the motion.

It was on motion 3-2, Dretler-aye, Roberts-aye, Brown-no, Schineller-no, Carty-no

VOTED: Not to support Article 18 – Fairbank Community Center Design and Construction Funds - \$28,832,000.

Selectman Schineller stated that he voted against the article because all alternatives had not been explored and not because the design was inferior. He also mentioned the financial considerations of COVID-19. If the article passed at Town Meeting, he would go along with the execution of such plans, and if the article did not pass as presented, he would be happy to review alternative plans.

Selectman Roberts stated that the project as presented, would provide a strong community center for all residents and associated taxation would not be realized until 2024.

Vice-Chair Brown stated that this decision is made by Town Meeting, but indicated that this was not the right time to undertake such an enormous project.

Selectman Dretler acknowledged the difficulty of the times, the importance of the project, and indicated that delaying the project would not be wise. She stressed that the Fairbank Community Center was not just a Senior Center, but also multi-faceted and an emergency shelter.

Chair Carty acknowledged that the Fairbank Community Center was a high priority BOS goal, which he could not support.

Discussion and possible vote on Key Performance Indicators (KPIs)

Selectman Schineller explained the KPI model, which would assist in providing updates on projects for Board review. He noted that project timeline dates would be provided in a publicly accessible site and the Board would visit project updates on a quarterly basis.

Selectman Roberts thought the model was a good one and asked about included templates or charts. Selectman Schineller stated that inclusion of such templates/charts would be included in his follow-up KPI presentation to the Board.

Selectman Dretler thanked Selectman Schineller for the insightful presentation. She stated that she would want to apply several ongoing Town projects as a visualization exercise. She questioned if Town staff would be included in the process.

Vice-Chair Brown supported the approach with focus on specified major projects, rather than including many projects which might limit staff time. She acknowledged project tracking was important.

Chair Carty expressed his approval for the KPI program and commented that the intent would help the Board and Town staff. He stated that he needed more time to consider the program.

Town Manager Hayes appreciated the effort and asked about contracts and pricing. He indicated that five-minute updates would be realistic, but pages of provided information might be a different story.

Citizen's Comments

There were no citizen's comments

Upcoming Agenda Items

- Joint letter with Sudbury School Committees
- Town Manager review process
- Minutes for review/approval
- Social Media
- Fairbank Forum planning
- Signing of Annual Town Meeting Warrant
- FinCom Budget plan/recommendation to present to BOS
- Historic District Commission interviews
- Social Justice/Racial Safety committee or task force

Consent Calendar

Vote to accept the resignation of Connie Steward from the Council on Aging

Vice-Chair Brown motioned and Selectman Roberts seconded the motion.

It was on motion 5-0, Brown-aye, Roberts-aye, Schineller-aye, Dretler-aye, Carty-aye

VOTED: To accept the resignation of Connie Steward from the Council on Aging and send a letter of thanks for her service to the Town.

Vote to adjourn meeting

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

It was on motion 5-0; Brown-aye, Dretler-aye, Schineller-aye, Roberts-aye, Carty-aye.

VOTED: To adjourn the meeting

There being no further business, the open meeting adjourned at 11:10 p.m.

Attest: _____

Henry L. Hayes, Jr.

Town Manager-Clerk

Documents & Exhibits – 7/28/20

1. Open in regular session and immediately vote to enter executive session to consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body, pursuant to General Laws chapter 30A, §21(a)(exception 6) with respect to the Sudbury portion of the CSX rail corridor.

Attachments:

- 1.a CSX Appraisal ES Memo 2020 May 12
- 1.b 2020 CSX Acquisition Timeline Revised BOS May 2020
- 1.c CSX Sudbury Rail Corridor Colliers Appraisal 20200506
- 1.d Signed Confidentiality Statement SWD re CSX PandS 3-23--20 - NDA

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 (proposed Eversource transmission line), pursuant to General Laws chapter 30A, §21(a)(3).

Attachments:

- 2.a Memo Historical_Comm_Eversource
- 2.b 7820HC2ndletterEversource
- 2.c 7820HC2ndletterMHCEversource
- 2.d HCRequestPeerReviewAssist106ReviewSB (1)

3. Also to review executive session meeting minutes, pursuant to G.L. c. 30A, § 21(a)(7) “[t]o comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements” (“Purpose 7”), citing to the Open Meeting Law, G.L. c. 30A, §§ 22(f), (g).

Attachments:

- 3.a BOS_Executive Session.12_3_19_for_review

8. Presentation of ATM Proposed Zoning Bylaw Amendments - Articles #37 and #38

Attachments:

- 8.a 2020 ATM Proposed Zoning Bylaw Amendments 200728

9. Discussion and vote whether to sign a comment letter to MassDOT for BFRT

Attachments:

- 9.a Dretler_Draft SB Letter BRFT 25 DPH 072720
- 9.b 25%_Design_Letter_Board
- 9.c 608164_Embankment_Topology
- 9.d 608164_HudsonRoadCrossing
- 9.e 608164_NorthRoadCrossing

10. VOTE: Shall the town of Sudbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to acquire the parcel of land shown as Mile Post QBS 3.40 to QBS 4.80 on a Railroad Map dated July 22, 2020 prepared by CSX Transportation, Inc., and a Plan dated July 20, 2020, copies of which are on file with the Town Clerk, consisting of 11.26 acres of land, more or less and any and all incidental and related costs associated therewith?

Attachments:

- 10.a Ballot Question Email_Lee_smith
- 10.b Aerial - MA-017-1015814

11. Vote to modify wording of the CSX town meeting article #17 to match the ballot question.

Attachments:

11.a ARTICLE 17 for review 7-15

12. Discussion on Town Manager 90-day check-in, goals and 6-month evaluation

Attachments:

12.a TM Eval Checklist

12.b TM Eval Process

14. Review Town Meeting article #18 (Fairbank) and possibly take position.

Attachments:

14.a Copy of Articles list ATM 2020_7.28.20

15. Discussion on Board's Social Media Policy

Attachments:

15.a Dretler_links to other towns policies

15.b draft social media policy

15.c Social Media pitfalls

15.d Social Media Policy Easton - Acknowledgement 2020

15.e Social Media Policy from Easton 2020

15.f (Maynard) Code of Ethics for Public Officials - Enforcement Process

15.g (Maynard) Code of Ethics for Public Officials

16. Discussion and possible vote on Key Performance Indicators (KPI) as requested by Selectman Schineller.

Attachments:

16.a DRAFT SelectBoard Project Tracking Policy

16.b Project Status and KPIs

17. Discussion on Ballot question policy "pro" and "con".

Attachments:

17.a WARRANT SCHEDULE SEPT 2020 ATM

17.b Ballot Question Policy_02.07.17

19. Upcoming Agenda Items

Attachments:

19.a POTENTIAL UPCOMING AGENDA ITEMS_7_28_20

20. Vote to accept the resignation of Connie Steward from the Council on Aging and send a letter of thanks for her service to the Town.

Attachments:

20.a Steward_resign_COA