

IN BOARD OF SUDBURY SELECTMEN

EXECUTIVE SESSION

TUESDAY APRIL 14, 2020

VIRTUAL MEETING

Present: Chairman Daniel E. Carty, Vice-Chairman Patricia Brown, Selectman Janie Dretler, Selectman Jennifer Roberts, Selectman William Schineller, Town Manager Henry Hayes, Assistant Town Manager Maryanne Bilodeau, Environmental Planner Beth Suedmeyer, Director of Planning and Development Adam Duchesneau, and Town Counsel Lee Smith

The statutory requirements as to notice having been complied with, the meeting was convened at approximately 5:00 p.m. via ZOOM telecommunication mode.

Chairman Carty called the meeting to order and announced a joint Executive Session with the Sudbury Water District.

**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 CSX rail corridor.**

It was on motion unanimously

VOTED: 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 CSX rail corridor.

Present: Vincent Roy, Sudbury Water District; Robert Sheldon, Sudbury Water District; and Lawson Williams, Attorney for the Sudbury Water District

Mr. Roy stated he discussed the related CSX ¼ mile purchase with a MassDEP regional office representative, who was familiar with the CSX corridor. Mr. Roy affirmed that the MassDEP representative expressed concern regarding proximity of Town well/s to the rails and any disturbance that heavy equipment might create. The MassDEP official suggested that the trail be located outside of Zone 1.

Mr. Roy stated that the Water District supported Town BFRT advancement efforts, and at a recent executive session, the Sudbury Water District reviewed the proposed draft Purchase & Sale (P&S) Agreement and expressed areas of concern:

- Crossing easement/s for repair of well piping, etc.
- MassDEP project approval
- Installation of sufficient “no trespassing” signage
- Conservation restrictions
- Town seeking monetary contribution from the Water District
- Covid-19 related water payment decrease
- Costly remediation regarding possible presence of contaminants, identified after the P&S is signed
- Work within Zone 1

Mr. Sheldon noted that at this time the Water District had a cash flow shortage, and would not be able to contribute to funding the CSX purchase.

Mr. Roy advocated for soil analysis results before signing of a P&S, because the District did not want to be “roped” into a possible costly clean-up plan.

Attorney Smith suggested that such concerns be presented to CSX, and negotiate terms if remediation was necessary.

Ms. Suedmeyer commented that 2009 soil analysis reflected non-reportable levels of PAH (polycyclic aromatic hydrocarbons) and petroleum in two hot spots, which she thought were not within Zone 1. Attorney Smith summarized that the results of current contamination levels would be important in consideration of CSX remediation or negotiated purchase price.

Selectman Roberts commented that if contaminants were present, the Town would want to know that in order to protect the wells and drinking water sources.

Selectman Schineller queried about contaminants from the former Raytheon site ending up at Raymond Road. Mr. Sheldon responded that there were trace amounts of contaminants (below MCL), but the source was never identified. He also mentioned the accidental spillage on the right of way some 15 years ago.

Selectman Dretler inquired about project funding from the Sudbury Water District. Mr. Sheldon reiterated that the Water District wanted to see what the Town might actually need when the time comes. Selectman Schineller stated that Town ownership would benefit the Water District.

Mr. Sheldon affirmed that the Water District was concerned about anyone buying the property near the wells such as the state. Selectman Dretler commented that she was not sure that the state would buy the parcel.

Vice-Chair Brown asked for a copy of the seven Sudbury Water District concerns. Attorney Smith stated he could share the correspondence from Mr. Williams.

Chair Carty claimed that any contribution that the Water District might offer would have to be approved at a Sudbury Water District meeting. Mr. Roy stated that the Water District could contribute to water testing in the short term, and any other proposed contribution would have to be voted upon at the next Annual Water District meeting.

The joint executive meeting with the Sudbury Water District closed at 6:00 p.m. The Sudbury Water District representatives left the remote meeting.

Selectman Roberts stated that her assessment of the joint meeting was positive, and she indicated that the District definitely wanted documented easement rights as well as MassDEP involvement.

Mr. Smith suggested that the general language of the draft P&S was acceptable to the Sudbury Water District, and the Board awaited the appraisal report to determine if a counter-offer could be presented.

Selectman Dretler indicated the benefit of knowing what the Water District might contribute before the article was presentation at Town Meeting.

Selectman Schineller indicated that the joint meeting with the Water District was not very productive and felt that the “wedding gift” contribution comment was inappropriate. He indicated he was not sure about the Covid-19 excuse, in relation to the increase of unpaid water bills.

Chair Carty commented that the Town has some of the same concerns that the Water District shared, such as crossing easements, conservation restrictions, MassDEP considerations, inability to test soil before signing the P&S, and other legal concerns. He was not surprised with the Water District’s reluctance to contribute.

Attorney Smith maintained that a CSX closing by November 30, 2020 would mean that the warrant article could be presented at a spring Town Meeting or at a fall Town Meeting. He reminded the Board that after November 30<sup>th</sup>, the CSX purchase amount would increase by 5%, assuming the Covid-19 situation did not prompt change of the prescribed terms.

Ms. Suedmeyer mentioned that the results of the title search and appraisal would dictate the terms of the P&S and associated grant funding.

Chair Carty spoke about the challenge involved in securing the \$100,000 grant at a time when capital expenditures might not be preferred. Selectman Roberts stated it would be wise to move forward in consideration of Town water safety. Selectman Dretler affirmed that the Town must act for many reasons. Selectman Schineller stated he did not want the CSX article to appear on the spring Town Meeting Warrant.

Vice-Chair Brown indicated that the CSX article should be presented at a fall Town Meeting.

Attorney Smith suggested moving forward with the P&S without supplying a deposit at this time. Mr. Schineller indicated that the Town would lose negotiating leverage if the P&S were signed now, and the most appropriate buyer was the state.

Vice-Chair Brown inquired about the title issue. Mr. Smith detailed that a completed title search would document exactly what sections are owned by CSX, and that the appraisers needed that information. He explained that a title search was performed some years ago, but he had no confidence in the accuracy of that search.

Town Manager Hayes suggested that scheduling a fall Town Meeting for September 13 and 14, in conjunction with the presidential election, might work well.

Ms. Suedmeyer recommended that the Board might consider meeting next week after the appraisal report is received.

Chair Carty stated the Board must review the appraisal before the P&S is signed. He recommended that an executive session meeting be scheduled in order to review/approve executive minutes, and review the appraisal report.

Attorney Smith suggested that CSX discussion by the Board be limited to executive session until a P&S is signed by both parties.

**Vote to close executive session and resume open session**

It was on motion unanimously

VOTED: To close executive session and resume in open session.

There being no further business, executive session was adjourned at approximately 6:30 p.m.