

March 26, 2022

Hello Beth,

Thank you for your email of March 18.

I was pleased to see that at MPO meeting last Thursday the MPO kept the BFRT on the TIP for construction in FY2022.

I appreciate the hard work you have put in to advance the rail trail designs with Fuss & O'Neill. It seems that F & O will be able to advance their design work to deliver the 75% and 100% designs in April and December, respectively, per their contract.

If I can assist you in any way to complete the remaining tasks, or overcome obstacles, I would be happy to do so. Many residents would be appreciative of any steps that could be taken to reach the goal of using the BFRT.

While progress has been made, in my view, we are not out of the woods yet. There are areas where the design could become stalled, so that the final design would not be ripe for advertisement early next year. *I mention these because they are areas over which Sudbury does not have control.*

1. The first area is securing DOT approval of the 75% and 100% designs. DOT runs on its own schedule and assuming it will provide a stamp of approval to any design within a proscribed period of time is an unwarranted assumption. We saw how much longer it took DOT to approve the 25% design than was anticipated, even after the design public hearing.
2. Obtaining temporary 'construction' easements from property owners. I don't these being the subject of any town meeting.

If this must be done through at a town meeting in the fall, as you suggested at the March 16 Select Board meeting, there is the potential for a campaign to defeat such articles by certain residents and businesses, and passage is not certain.

A fall town meeting is not automatic. The procedure for calling one changed a few years ago. There was no fall town meeting in 2020.

A few residents or businesses may try to forestall such a town meeting and objections may well be raised. If an 'additional' a town meeting is needed,

calling it earlier than the fall is an option, just in case snags are encountered.

3. Obtaining the necessary permits approvals from the Conservation Commission may well be more time consuming and contentions that might be expected. The Order of Conditions for the 25% design was contested, resulting in a substantial delay, even though it was an exempt activity. There was an appeal to DEP and a suit in superior Court. Ultimately, the obstacles were overcome, but it was a time-consuming process. Beginning the process earlier would provide a time cushion on the back end, if it was needed.
4. Removal of encroachments, if not undertaken voluntarily, can be time-consuming. Legal action to remove encroachments, if necessary, can be a slow process, even if the outcome is likely to be in the town's favor.
5. Ch. 91 licenses. This is not subject which I know enough about to provide a useful comment. If such licenses are necessary, I would hope that if Sudbury does not have them by the late fall, that would not become an obstacle to DOT final approval in time for advertising.
6. Securing a lease agreement with MBTA's Rail and Transit division. I know you mentioned some progress has been made. It seems one way to exert leverage would be to indicate to the MBTA that all actions, permits, and designs needed to sign a lease have been completed, and final step to allow construction to proceed is finalization of the documents, and that Sudbury Town counsel stands ready to work with MBTA to accomplish that.

I certainly hope the remaining tasks; easement acquisition, permitting, licensing, and other steps needed to complete the rail trail design to enable it to be advertised in 2022 and construction started later in the year, will be completed on time. However, the collateral issues, discussed above, would best be addressed sooner rather than later. The knowledgeable members of the BFRT Advisory Task Force, the Friends of the BFRT who have experience with these issues, and I are here to provide assistance and support.

MEMO

To: Town Manager Hayes, Sudbury Select Board

From: Len Simon

Date: May 18, 2021

I continue to be concerned about the progress on the BFRT design and required submissions to MassDOT for the Sudbury Bruce Freeman Rail Trail.

Ms. Suedmeyer had stated the project would be fully submitted to MassDOT by the end of 2021, ready for advertisement in the spring, and that construction would begin in the summer of 2022. In a document presented at the Select Board meeting on May 13, 2021, the Final Design (PSE) was scheduled to be submitted to MassDOT on December 15, 2021. Now, per her May 14, 2021, memo the 'current estimated advertising date, the target final design date, is June 11, 2022'. This is six months behind schedule.

In my opinion, we are perilously close to losing federal and state construction funding because of delays in design submissions and for other reasons, noted below.

Review of the newest BFRT UD PDS Schedule, May 12, 2021 shows:

1. The finish dates for Environmental Milestones have been pushed out from 11/4/2021 (finish) on the Dec. 14, 2020 schedule to 2/20/2022 (finish) on the May 12, 2021 schedule. This a change of 3½ months.
2. A whole set of new tasks under Environmental Milestones has been added to the May 12, 201, schedule for Chapter 91 Determination of Application, that was not on either of the two previous schedules, 12/14/2020 and 3/9/2021. Assuming the Determination of Application was submitted on May 5, 2021, MassDEP it may take 180 days to receive a response, that is, by November 1, 2021. At that point the town would need to respond by December 1, 2021. This was one subject of concern raised 1) at the MPO meeting on February 18, 2021, 2) a matter I raised in my March 26, 2021, (incorrectly dated March 26, 2022) memo which was attached to my March 26, 2021, email to Ms. Suedmeyer with cc to Town Manager Hayes, 3) a

matter I raised at the April 2021, BFRT Advisory Task Force meeting, and 4) which I raised again in my memo of May 10, 2021.

3. The December 2020 schedule called to 'Submit 100% ROW plans' on September 15, 2021. The latest schedule calls for submission on November 23, 2021.
4. It is clear from a review of each of the three UD UPS schedules, each time a submission or milestone is pushed back, there is a cascading, or domino effect, pushing back other steps in the design and submission process, e.g., 75% Design Submittal, PS & E submittal, Environmental Milestones.
5. The May 12, 2021, UD PDS schedule notes there will be a Town Meeting by November 9, 2021, for "Easement Approval". Ms. Suedmeyer has repeatedly said a 2021 fall Town Meeting would be necessary. In her memo of May 14, 2021, just 2 days later, Ms. Suedmeyer revises her statement regarding the fall Town Meeting and now says the matter will be addressed at the May 2022 annual Town Meeting. To my knowledge, after inquiry, no other towns along the BFRT have needed a Town Meeting for the rail trail, other than to appropriate funds for design. And, approval of any article at Town Meeting is not guaranteed. What then? Approval