

SUDBURY SELECT BOARD

TUESDAY MAY 4, 2021

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

Present: Chair Janie Dretler, Vice-Chair Jennifer Roberts (joined 6:50 pm), Select Board Member Daniel E. Carty, Select Board Member William Schineller, Select Board Member Charles Russo, Town Manager Henry Hayes

The statutory requirements as to notice having been complied with, the meeting was convened at 6:45 p.m. via Zoom telecommunication mode.

Chair Dretler announced the recording of the meeting and other procedural aspects included in the meeting.

Call to Order/Roll Call

Select Board Roll Call: Schineller-present, Carty-present, Dretler-present, Russo-present

Opening remarks by Chair

- Sudbury Health Department awarded a \$300,000 Public Health Grant to be shared with several other communities
- Community Preservation Committee seeking member
- Spencer, the four-year old goat, was rescued in Sudbury

Reports from Town Manager

- Town Manager Office Hours, via Zoom, Thursday, May 13th at 3:00 p.m.
- Two Municipal Minute episodes recently recorded – one highlighting Town Moderator Cate Blake, and the other highlighting Fire Chief Whalen and the proposed Fire Station 2 project

At approximately 6:50 p.m. Vice-Chair Roberts joined the meeting and confirmed her presence; Roberts-present

Reports from Select Board

Board Member Russo:

- Attended recent meeting of the September 11 Memorial Garden Committee and acknowledged the Committee is planning garden improvements
- Announced he and Vice-Chair Roberts recently hosted Select Board Office Hours; several insightful questions were posed by residents
- The Master Plan was approved

Board Member Schineller:

- Ponds and Waterways Committee seeking new members
- The Diversity, Equity and Inclusion Commission will conduct its first meeting in the next couple of weeks

- The Select Board Financial Policies Subcommittee (he and Vice-Chair Roberts) completed the draft of the Policies to be presented to the Select Board

Vice-Chair Roberts:

- Attended a Board of Health Meeting earlier today; announced \$300,000 Public Health grant to be shared with Concord, Carlisle, Lincoln, and Wayland. The grant will be applied to public health needs, specifically, duties involving inspectors and public health nursing

Board Member Carty:

- Attended SPS School Committee last night, topics included funding for the summer school program, and the Superintendent's Summative Report
- Sudbury Water District Annual Meeting and elections will be on May 18, with focus on Warrant Article 16 regarding construction of a PFAS treatment facility
- Transportation Committee will be announcing the return of the Taxi /Uber program and the expanded availability of the senior van rides

Board Member Carty stated he would recuse himself from the Eversource hearing.

Citizens comments on items not on agenda

No comments.

Consent Calendar:

Send a thank you letter to Anuraj Shah for his service on the Community Preservation Committee and Planning Board

Chair Dretler read in the words of the motion. Board Member Carty moved in the words of the Chair. Board Member Russo seconded the motion.

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

VOTED: To send a thank you letter to Anuraj Shah for his service on the Community Preservation Committee and Planning Board.

Approve the FY22 rates for transfer station stickers as recommended by DPW Director Dan Nason, who is advising leaving them at the FY21 amounts

Chair Dretler read in the words of the motion. Board Member Carty moved in the words of the Chair. Board Member Russo seconded the motion.

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

VOTED: To approve the FY22 rates for transfer station stickers as recommended by DPW Director Dan Nason, who is advising leaving them at the FY21 amounts.

Accept a grant from the Department of Fire Service in the amount of \$14,880 for the purchase of Firefighter Safety Equipment

Chair Dretler read in the words of the motion. Board Member Carty moved in the words of the Chair. Board Member Russo seconded the motion.

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

VOTED: To accept a grant from the Department of Fire Service in the amount of \$14,880 for the purchase of Firefighter Safety Equipment

VOTE to open continuation of 4/6/21 Public Hearing: Vote whether to approve a request by NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY for the purpose of obtaining a Grant of Location to construct upon, along, under, or across the following public way(s) of the Town of Sudbury, wires, cables, piers, abutments, conduits, or fixtures in accordance with plan(s) made by Eversource dated March 1, 2019, on file with said petition: Dutton Road (at its intersection with the MBTA rail corridor); Peakham Road (at its intersection with the MBTA rail corridor); Horse Pond Road (at its intersection with the MBTA rail corridor); Union Avenue (at its intersection with the MBTA rail corridor). This work is necessary to construct a new underground electric transmission line.

Present: DPW Director Dan Nason, Town Counsel George Pucci, Mike Hager, Project Manager – Eversource; Shawn Southworth – Manager of the Right of Way Group - Eversource; David Rosenzweig, Counsel for Eversource

Chair Dretler read in the words of the motion. Board Member Russo moved in the words of the Chair. Vice-Chair Roberts seconded the motion.

It was on motion 4-0; Schineller-aye, Roberts-aye, Russo-aye, Dretler-aye

VOTED: To open continuation of 4/6/21 Public Hearing: Vote whether to approve a request by NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY for the purpose of obtaining a Grant of Location to construct upon, along, under, or across the following public way(s) of the Town of Sudbury, wires, cables, piers, abutments, conduits, or fixtures in accordance with plan(s) made by Eversource dated March 1, 2019, on file with said petition: Dutton Road (at its intersection with the MBTA rail corridor); Peakham Road (at its intersection with the MBTA rail corridor); Horse Pond Road (at its intersection with the MBTA rail corridor); Union Avenue (at its intersection with the MBTA rail corridor). This work is necessary to construct a new underground electric transmission line.

Chair Dretler thanked the Eversource team for providing responses to presented Board queries and the approved/modified or denied conditions. Mr. Hager noted there were 55 conditions presented and Eversource approved 50 conditions, with several minor clarifications.

Board Member Schineller stated that some of the conditioning submitted by Board members was taken from a Siting Board decision, and hoped that Eversource would reconsider the conditions they had denied.

Board Member Russo presented a proposed edit as well as three additional conditions:

- EDIT TO EXISTING CONDITION - This approval shall become effective in four months, on September 8, 2021, or eight weeks after the Town receives a copy of the Memorandum of Understanding (MOU) between Eversource and the MA Department of Conservation and Recreation (DCR); whichever is later.

- NEW CONDITION – Failure to fully comply with, or any material changes from all conditions stated herein, and with all related statutes, permits, or other regulatory measures; shall be deemed cause to revoke or modify this Grant of Location (GOL).
- NEW CONDITION – After substantial completion of the work pursuant to, and as required by, a Grant of Location; the grantee shall submit “as-built” plans of the facilities, stamped by a professional land surveyor or other qualified professional, detailing all elements of work.
- NEW CONDITION – This Grant of Location does not relieve the permittee or any other person of the necessity of complying with all other applicable Federal, State, or local statutes, ordinances, by-laws, or regulations.

Responses from Eversource representatives to Board Member Russo’s edit and conditions:

- EDIT – Eversource representatives were agreeable to the date, but not the MOU specification, adding that DCR has no role in the duct bank, laying cables related to GOL; and enforcement was not under the purview of DCR.
- NEW CONDITION – Revoking/modification of Grant of Location believed to be outside of the Select Board authority. Stated that according to MA Supreme Judicial Court (SJC), once the permit is granted, it is not subject to revocation.
- NEW CONDITION – Eversource representatives had no objection to the inclusion of an “as-built” plan, stamped by a professional land surveyor/and or, other qualified professional/s
- NEW CONDITION - Eversource representatives expressed no general objection to complying with the condition that the Grant of Location did not relieve the permittee or any other person of the necessity of complying with all other applicable Federal, State, or local statutes, ordinances, by-laws, or regulations.

Vice-Chair Roberts stated the presented conditions as noted by Board Member Russo should be included in the condition documentation.

Chair Dretler commented about the proposed de-energized transmission line condition which detailed the restoration of the site to its prior condition, when no longer needed.

Board Member Schineller confirmed the community had serious concerns about the safety of the rail trail for walkers and bikers, in consideration of the fact that the transmission line would be located directly under the trail, especially at the crossings. He requested testing of EMF (Electric and Magnetic Fields) exposure on a more frequent schedule plan considering peak loading. He expressed concern about definition of safe EMF levels, and stated that Eversource was endorsing a standard which was far less stringent than the EFSB standard. He further indicated that 85 mG was the standard set by the EFSB, and anything above that was unreasonably high. Board Member Schineller recommended that recourse be considered in the form of de-energizing the line, changing of design, and posted warning signs.

Board Member Schineller stated that Eversource rejected the condition establishing a \$2 million bond in the instance that GOL conditions and safe EMF levels were not met. He mentioned that the Town of Stoughton implemented a \$500,000 bond as assurance, and Sudbury should be offered that same recourse. He emphasized that EMF radiation from transmission lines was a real health threat.

Mr. Hager stated utility lines were typically abandoned when no longer required, and left in place, though language might be included for removing the duct bank, and at the end of the transmission line life. He suggested

the term “de-energized” might be substituted with preferred language within an agreement to remove the duct bank.

Mr. Rosenzweig detailed that the 85mG was not a standard and the ICNIRP (International Commission on Non-Ionizing Radiation Protection) and the ICES (International Committee on Electromagnetic Safety) serves to protect workers and the general public from adverse effects from EMF, and the ICNIRP recognized that levels at 2,000 mG were acceptable. He added that the World Health Organization concluded that magnetic field levels found in everyday environments (including those near electric power lines) do not lead to adverse health or safety impacts.

Resident Julie Lieberman, 19 Rolling Lane, asked why the annual hours are used in this calculation. Mr. Rosenzweig responded that according to health standards as mentioned, the annual calculation by hour, related to long-term exposure and not instant exposure, thus, the average hour load calculations were appropriate. He stressed that the Board would not have jurisdiction over this aspect.

Resident Manish Sharma, 77 Colonial Road, inquired via chat, if counsel might include an EMF addendum clause.

Vice-Chair Roberts asked about other communities involved with similar transmission lines running through bike paths. Mr. Rosenzweig responded a number of projects were similar with some sidewalks nearby. Vice-Chair Roberts asked if the lines were directly below the proposed trail. Mr. Hager responded that for the most part, the duct banks were off to the side of the path in many areas to avoid wetlands and environmental impacts.

Ms. Lieberman stated that the original Eversource application listed peak loading calculations, which were greater than what was now presented. Mr. Rosenzweig took exception with the calculations represented.

Vice-Chair Roberts asked Mr. Nason to explain the bonding aspect. Mr. Nason responded that the bond would cover work within the Town right of way and not the MBTA or DCR right of way.

Mr. Pucci acknowledged that bonding in this instance was dependent on Sudbury DPW. Mr. Nason confirmed \$10,000 per road crossing was standard, in consideration that the roadway was brought back to its original state.

Vice-Chair Roberts asked if EMF evaluations could be conducted more than once per year. Mr. Rosenzweig responded in the affirmative. Mr. Hager commented that magnetic field results could be addressed if mG calculations increased. Mr. Rosenzweig acknowledged that Eversource would investigate such increases if an agreement were reached regarding Grant of Location.

Board Member Schineller requested the following be added to the record:

- Link to the Stoughton Grant of Location
- Related Stoughton minutes – 3/15/17, 5/24/17, 6/20/17, 9/5/17, 10/17/17
- Siting Board documentation and Notice of Decision dated 10/17/17

Board Member Schineller recommended an additional condition regarding ISO New England be included to confirm that ISO New England acknowledged such contingency that the transmission line might require relocation at the expense of Eversource. Mr. Rosenzweig answered that he would not be able to confirm that such condition could be agreed upon at this time.

Board Member Schineller motioned to include Grant of Location conditioning that Eversource shall obtain and provide to the Town of Sudbury, written acknowledgement from ISO New England, states in lease agreement with Eversource, that Eversource shall relocate the transmission line, if requested by the MBTA. Vice-Chair Roberts seconded the motion.

It was on motion 1-3; Schineller-aye, Russo-no, Roberts-no, Dretler-no

VOTED: Not to include Grant of Location conditioning that Eversource shall obtain and provide to the Town of Sudbury, written acknowledgement from ISO New England, states in lease agreement with Eversource, that Eversource shall relocate the transmission line, if requested by the MBTA.

Board Member Schineller indicated there was no risk associated with the condition which he presented.

Chair Dretler recommended the Board take a five-minute recess.

Chair Dretler read in the words of the motion. Board Member Russo moved in the words of the Chair. Vice-Chair Roberts seconded the motion.

It was on motion 4-0; Roberts-aye, Schineller-aye, Russo-aye, Dretler-aye

VOTED: To take a five-minute recess

Board Members resumed the meeting at 10:06 p.m. Board Members spent considerable time discussing and providing edits to the GOL document, the bond language, and drafted conditions.

Mr. Pucci indicated a bonding condition drafted by the Board would be invalid as written, and opined about inclusion of a testing requirement to ensure that EMF levels did not exceed that which was acceptable by the Siting Board.

Board Member Schineller motioned that the Board work with Town Counsel after Town Counsel studied other relevant Grant of Locations and the EMF issue and craft a related condition that would protect the Town of Sudbury from harmful EMF effects to be addressed with a bond. Vice-Chair Roberts seconded the motion.

It was on motion 1-3; Roberts-no, Russo-no, Schineller-aye, Dretler-no

VOTED: Not to work with Town Counsel after Town Counsel studied other relevant Grant of Locations and the EMF issue and craft a related condition that would protect the Town of Sudbury from harmful EMF effects to be addressed with a bond.

Vice-Chair Roberts asked Mr. Pucci if he had ever seen a similar case. Mr. Pucci responded not, and indicated this aspect was outside of the Board's jurisdiction. He added he would be willing to search for such a related EMF case, but strongly felt that the Stoughton decision was not similar.

Board Member Schineller commented there might not be a similar case because to date there had not been a project where the transmission line sits directly under the rail trail.

Mr. Pucci suggested a possible motion regarding EMF protections.

Mr. Rosenzweig stated that Eversource could not commit to a condition which endorsed the 85 mG limit, and the Siting Board did not express such limit in this case; the 85 mG was only a guideline. He reiterated the Board's attempt at imposing such limit with bonding would be outside the authority of the Select Board.

Vice-Chair Roberts maintained there must be a level of acceptance. Chair Dretler said she was fine with including the 85 mG guideline. Board Member Schineller agreed with Chair Dretler.

Board Member Russo motioned to close the Public Hearing. Vice-Chair Roberts seconded the motion.

It was on motion 3-1; Schineller-no, Roberts-aye, Russo-aye, Dretler-aye.

VOTED: To close the Public Hearing

Board Member Russo motioned to approve Grant of Location requested by NSTAR Electric company d/b/a Eversource Energy to construct upon, along, under, or across the following public way(s) of the Town of Sudbury, wires, cables, piers, abutments, conduits, or fixtures in accordance with plan(s) made by Eversource dated March 1, 2019, on file with said petition: Dutton Road (at its intersection with the MBTA rail corridor); Peakham Road (at its intersection with the MBTA rail corridor); Horse Pond Road (at its intersection with the MBTA rail corridor); Union Avenue (at its intersection with the MBTA rail corridor) as part of its work to construct a new underground electric transmission line with all the conditions as discussed at tonight's meeting as reviewed/edited by the Select Board, consistent with the final review and edit conducted tonight, subject to a final clean-up for grammar, spelling, consistency without any substantive changes. Board Member Schineller seconded the motion.

Board Member Schineller noted that the Town was basically opposed to this project in consideration of environmental concerns, especially the EMF issue. He added that an impending appeal was also a consideration.

It was on motion 3-1; Schineller-no, Russo-aye, Roberts-aye Dretler-aye

VOTED: To approve Grant of Location requested by NSTAR Electric company d.b.a Eversource Energy to construct upon, along, under, or across the following public way(s) of the Town of Sudbury, wires, cables, piers, abutments, conduits, or fixtures in accordance with plan(s) made by Eversource dated March 1, 2019, on file with said petition: Dutton Road (at its intersection with the MBTA rail corridor); Peakham Road (at its intersection with the MBTA rail corridor); Horse Pond Road (at its intersection with the MBTA rail corridor); Union Avenue (at its intersection with the MBTA rail corridor) as part of its work to construct a new underground electric transmission line with all the conditions as discussed at tonight's meeting as reviewed/edited edited by the Select Board, consistent with the final review and edit conducted tonight, subject to a final clean-up for grammar, spelling, consistency; without any substantive changes.

Upcoming Agenda Items

Board Members recommended continued discussion of agenda items not covered at this meeting to May 12 or May 13.

Adjourn

Chair Dretler motioned to adjourn the meeting. Board Member Schineller seconded the motion.

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

VOTED: To adjourn the meeting.

There being no further business the meeting was adjourned at 12:10 a.m., Wednesday, May 5, 2021.

Documents & Exhibits

1. VOTE to open continuation of 4/6/21 Public Hearing: Vote whether to approve a request by NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY for the purpose of obtaining a Grant of Location to construct upon, along, under, or across the following public way(s) of the Town of Sudbury, wires, cables, piers, abutments, conduits, or fixtures in accordance with plan(s) made by Eversource dated March 1, 2019, on file with said petition: Dutton Road (at its intersection with the MBTA rail corridor); Peakham Road (at its intersection with the MBTA rail corridor); Horse Pond Road (at its intersection with the MBTA rail corridor); Union Avenue (at its intersection with the MBTA rail corridor). This work is necessary to construct a new underground electric transmission line.

Attachments:

- 1.a Petition for Grant of Location in Town Ways_2.12.20
- 1.b RoadOpeningForm 04-28-2020
- 1.c Eversource-Sudbury - Grant of Location - Prep info - March 2021
- 1.d 2020.01.21 SUDBURY GOL PP REV 1
- 1.e 2020.01.24 Sudbury GOL TTCP
- 1.f GOL responses 1-13-21
- 1.g GOL - ORDER FOR LOCATION - 2021 April 6
- 1.h GOL - ORDER FOR LOCATION - 2021 April 21
- 1.i Select Board Letter and GOL (4-30 final)

2. Vote to close public hearing.

3. Update on public outreach and education on the Comprehensive Wastewater Management Plan (CWMP), as requested by DPW Director Dan Nason. In attendance will also be consultants from Woodard & Curran and Capital Strategic Solutions.

Attachments:

- 3.a CWMP_update

4. Financial policies update. Vice Chair Roberts and Board Member Schineller to report.

Attachments:

- 4.a Draft Policy Intro 04.29.21
- 4.b Select Board Financial Policies WORKING DRAFT 2021 04.29.21
- 4.c FinancialPolicyDecisionsForConsideration 04.29.21

5. Town Manager to provide update on Key Performance Indicators (KPI) projects.

Attachments:

- 5.a BFRT SB Project Status Update 21-04-29
- 5.b CWMP Project Status Update 21-04-15
- 5.c Eversource Project Status Update 04-12-21
- 5.d Fairbank SB Project Status Update 21-04-29

- 5.e KPI - ADA - Project Status Update 21-04-29
- 5.f KPI - Town Hall - Project Status Update 21-04-09

6. Discussion on Annual Town Forum. Vice Chair Roberts to provide update.

Attachments:

- 6.a Town Forum on Master Plan - for Select Board Packet

7. Review open session minutes of 3/30/21 and possibly vote to approve minutes.

Attachments:

- 7.a SB_draft1_3.30.21_min_for_review
- 7.b SB_draft1_3.30.21_min_for_review

8. Citizen's Comments (cont)

9. Upcoming Agenda Items

Attachments:

- 9.a POTENTIAL UPCOMING AGENDA ITEMS_5.4.21

10. Vote to send a thank you letter to Anuraj Shah for his service on the Community Preservation Committee and Planning Board.

11. Vote to approve the FY22 rates for transfer station stickers as recommended by DPW Director Dan Nason, who is advising leaving them at the FY21 amounts.

Attachments:

- 11.a TS FY22 Rate Chart for SB

12. Vote to accept a grant from the Department of Fire Service in the amount of \$14,880 for the purchase of Firefighter Safety Equipment.

Attachments:

- 12.a FY21 Fire Gear Grant