



# Town of Sudbury

## Historical Commission

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### MINUTES

MAY 17, 2021

### VIRTUAL MEETING

**Present:** Chair Chris Hagger, Vice-Chair Diana Warren, Jan Costa, Steve Greene, Fred Bautze

**Absent:** Diana Cebra, Taryn Trexler, Marjorie Katz

**Others Present:** Stacy Spies, Historic Preservation Consultant; Rick Concord, Railroad Historian – Wayland Historical Commission; Resident Nick Pernice, Beth Perry, Planning and Community Development Coordinator

Mr. Hagger opened the meeting at 7:30 PM. Mr. Hagger requested Sudbury Historic Commission (SHC) roll call: Warren-present, Hagger-present, Costa-present, Greene-present

#### **Eversource – Transmission Line Project**

Ms. Warren provided a related status update, and explained that the Commission received a letter from the Army Corp of Engineers dated April 21, 2021. The letter received from the Army Corps asked the Commission to provide comments regarding the Memorandum of Agreement (MOA), (included in the Corp. April 21 letter) by May 21, 2021. The same letter was circulated to Tribal Historic Preservation Officers, the Hudson Historical Commission, and MHC. Ms. Warren noted the MHC was also requested by the Army Corps to comment on the draft MOA.

Ms. Warren informed the Commission that a letter from Advisory Council to the Army Corps was received on April 30, 2021. She noted that the Advisory Council letter commented on the inadequate handling of Section 106 by the Army Corps, which was deficient in numerous aspects; lack of consultation with the Tribes (Narraganset), MHC and consulting parties, application of the Corps Appendix C regulation not authorized by the Council, lack of information about the DCR rail trail, as well as the lack of identifying historical resources and effects on resources. The HC draft letter affirmed that the process must begin anew with steps 1 and 2, including consideration of how to avoid adverse effects. The Advisory Council also commented that the Army Corps' application of Appendix C leaves the Corps vulnerable to being challenged for failing to implement Section 106 and the Council's regulations.

Ms. Warren stated that it is unknown how the Section 106 review would proceed and the Advisory Council in Washington, DC is now involved in the Section. She acknowledged that the Advisory Council recently submitted communication to the US Army Corps of Engineers She commented that the Commission has received no information about any response by the Corps to the Advisory Council's letter.

Mr. Hagger affirmed that he wanted more comments about the 66 railroad artifacts included in the letter to the Army Corps, and to not include as much about the Advisory Council opinion.

Commission members reviewed the various areas within the draft letter:

- Application of Appendix C (33 CFR 325) to Undertaking
- Extremely Narrow Scope of Appendix C – determined Permit Area which is contrary to APE under Section 106 (36 CFR 300)
- Omission of Historic Properties Eligible for Listing in National Register of Historic Places
- Incomplete Consultation Process – Adverse Effects are Unresolved
- MOA Based on Appendix C (33 CFR 325) Not Recognized by ACHP
- Further Comment Regarding Standing under Section 404 Clean Water Act/Section 106 NHPA
- Conclusion

Ms. Costa opined about the primary differences between Section 106 and Appendix C. Ms. Spies added that Section 106 dealt with the area of potential affect (APE), and full identification ty of artifacts to be eligible for National Register listing. Ms. Spies detailed that the APE reflected any area with physical disturbance, and that the Army Corps has not used the APE to determine what historic resources is subject to review suing its own Corps determined permit area under Appendix c. The Army Corps’ stance asserts they are only responsible for the waterway impacts of fill and discharge into the Hopp Brook.

Ms. Spies commented that the Advisory Council never authorized the Army Corps. to ignore other historical aspects impacted by the project; and stated that the Town of Sudbury was becoming very notable in the “historic preservation legal world.”

Mr. Hagger recommended that the comment “out of 66 railroad features, in a 4.3mile area, the Corps has only recognized one,” be presented in bold print. Ms. Costa recommended the word “identified” be added in the bolded text.

Mr. Hagger also recommended inclusion of the identifier “Eversource” in several areas of the letter.

Commissioners spent a considerable time discussing the aspects of Bridges 127 and 128, and “alteration” language. Language was discussed regarding the Section Tool House and other railroad features.

Commissioners agreed with appropriate wording, noting that the SHC could not perform complete review in consideration that Narragansett THPO input had not been acknowledged by the Army Corps, to date.

Ms. Warren indicated that the MOA made numerous erroneous statements, and addressed those misstatements in the draft letter to the Army Corps because the Corps’ May 21, 2021 letter to the Commission specifically requested SHC comments on the MOA. Mr. Hagger opined that such statement might not be within the interest of historical artifacts.

Mr. Hagger suggested language which indicated that the decision of the Army Corps. impacts the Commission’s ability to preserve and protect Bridge 127. Ms. Warren added that the Commission should advocate for a proper Section 106 review process, and the Advisory Council’s letter to the Corps advocates that the Corps follow Section 106, not Appendix C so is helping with this aspect.

Commissioners discussed the details of the Section 106 process. Mr. Hagger indicated that such detail should be included in a separate letter to cover this matter.

Discussion took place regarding the section titled MOA Based on Appendix C (33 CFR 325) Not Recognized by ACHP.

Ms. Spies suggested the letter should express to the Army Corp that they should respond by complying with Section 106. Ms. Warren agreed. Ms. Warren suggested changing the correspondence section titled “MOA Based on Appendix C (33 CFR 325) Not Recognized by ACHP,” to “Based on Appendix C (33 CFR 325) Not Section 106 (36 CFR 800).” Ms. Spies indicated that the amended statement should indicate that SHC recognizes that the Army Corps. presentation is based on Appendix C, and include language similar to: “We appreciate your sent along the MOA, but the SHC requests that you turn attention to the Section 106.” Ms. Spies indicated that such language means that the SHC would not endorse a MOA that did not act to operate under Section 106, instead applying Appendix C. Ms. Warren agreed with the proposed language presented by Ms. Spies.

Commissioners agreed that addressing Section 404 of the Clean Water Act was overreaching and did not need to be included in this letter. Mr. Hagger stated that the intention was to reinforce that Bridge 127 should not be demolished because of a rail trail design by DCR, and consideration of 65 other historical artifacts. Ms. Spies concurred that Bridge 127 was the issue to be considered, and agreed to rewrite the section.

Commissioners provided edits within the “Conclusion” section.

Ms. Warren stated that the attachments to the letter would include the Survey, the May 12<sup>th</sup> Letter, The Table of Railroad Features prepared by Ms. Spies, the Section Tool House photos supplied by Mr. Greene, and the Earth Removal documentation.

### **Adjourn**

**Ms. Warren motioned to adjourn the meeting. Ms. Costa seconded the motion. The vote was unanimous 4-0; Costa-aye, Hagger-aye, Warren-aye, Greene-aye**

The meeting was adjourned at approximately 9:33 p.m.