

IN BOARD OF SUDBURY SELECTMEN
THURSDAY, JUNE 27, 2019

Present: Chairman Daniel E. Carty, Vice-Chairman Patricia A. Brown, Selectman Janie Dretler, Selectman Jennifer Roberts, Selectman William Schineller, Town Manager Melissa Rodrigues, Assistant Town Manager/HR Director Maryanne Bilodeau, Town Counsel Jonathan M. Silverstein, and Counsel Brian W. Riley, KP Law.

The statutory requirements as to notice having been complied with, the meeting was convened at 2:08 p.m. at the Sudbury Police Station – Conference Room. Chairman Carty called the meeting to order.

Opening Remarks by Chairman

There were no opening remarks by the Chairman

Reports from Town Manager

There were no reports from the Town Manager

Reports from Selectmen

Selectman Brown stated that she was following the progress of the LS Regional Agreement and would report any updates to the Board in July.

Town Manager Rodrigues suggested that the LS topic be added to the next Selectmen meeting agenda, and the Board agreed.

Citizen's comments on items not on agenda

There were no citizen's comments.

Discussion on Town Manager Replacement

Mr. Schineller asked when Town Manager Rodrigues would be leaving the Town of Sudbury. Town Manager Rodrigues responded that she expected to remain at her post throughout the summer. She added that she would be present for the finalization of the Camp Sewataro P&S and the closing of the Town Warrant.

Vice-Chairman Brown noted that when the last Town Manager stepped down there was only a 30-day notice, which left several projects uncompleted and this situation is completely different.

Assistant Town Manager Bilodeau added that several weeks after the previous Town Manager left the Town, the Financial Director resigned which made for a difficult situation in light of the upcoming Town Meeting. She stated that the town had a great team, everyone worked together and were able to work it out successfully.

Selectman Dretler emphasized that preparedness is key.

Assistant Town Manager Bilodeau noted that the next step involves the completion of the Town Manager Search RFP.

Mr. Schineller inquired about the Town Manager search and the related committees for that process, adding that the Board of Selectmen makes the final decision.

Vice-Chairman Brown responded that the Assistant Town Manager would be acting in the Town Manager's absence until a new Town Manager was appointed via the RFP process. She added that a search firm would be used in the selection process with considerable interaction between the Chairman and the search firm and candidates would be presented to the Board.

She added that the particular search firm often dictates the timing and process steps. A panel approach was the method of selection when Town Manager Rodrigues was selected, and the firm selected who made up that panel.

Selectman Roberts asked Town Manager Rodrigues how certain her proposed new position is. Town Manager Rodrigues responded that she would be meeting with the prospective new employer this evening and does not know anything about the related contract and would expect to know more after tonight's meeting.

Selectman Roberts stated that if there were any factors which could influence the Town Manager's certainty about leaving Sudbury, she would want the Board to seriously consider that aspect and present a counteroffer.

Mr. Schineller commented that since the announcement of Town Manager Rodrigues' leaving, there have been nothing but positive reviews about her, and the Board would try to convince her to stay with the Town.

Town Manager Rodrigues replied that she appreciated the Board's willingness but emphasized that she could not change the geography/distance aspect. Chairman Carty agreed that no one wants Town Manager Rodrigues to leave.

Selectman Roberts asked if the next Town Manager could be selected internally. Chairman Carty stated that was possible. Town Manager Rodrigues detailed that such an internal Town Manager's appointment recently took place in Burlington, MA. Chairman Carty stressed that such a conversation would not be suitable in public session.

Selectman Roberts queried if there was any way to include the public in the interview process.

Chairman Carty recommended that some type of public panel participation would be a good idea, with involvement from senior staff which could help address staff morale.

Selectman Dretler commented that the selection process is dependent on the search firm. She asked Town Manager Rodrigues about the selection group configuration regarding Town Manager's prospective employment. Town Manager Rodrigues responded that the selection group included a member of the School Committee, a member of the Conservation Commission, former member of the Finance Committee, a Park and Recreation member, HR director and Assistant Town Manager. A discussion regarding search firms took place.

Chairman Carty stated that there will be further discussion regarding this matter at future meetings.

BOS Training with Town Counsel Jonathan Silverstein

Attorney Riley and Attorney Silverstein referred to "The OML (Open Meeting Law), PRL (Public Records Law), and the Conduct of Public Meetings" document with the following slides highlighted and discussed:

- MA OML (G.L. c.30A, ss18-25) addresses the administrative complaint process for Open Meeting Law violations under the purview of the Attorney General's Office (AG). Such administrative complaints have been filed in respect to the content of the meeting notice, the contents of meeting minutes, the timing of minutes approval and release, and production of meeting minutes upon request.
- Requirements – Mr. Riley explained that the regulation requires that minutes include summary of topics (not a transcript), a list of documents used during the meeting, but does not mean that the documents are necessarily a written part of the minutes. He stressed that if Board members had a report/document in front of them, it must be identified in the minutes. He thought it preferable to include a document listing at the end of the minutes.

Selectman Dretler favored the document listing in order to eliminate searching through a given packet.

Selectman Schineller questioned about timely posting of minutes. Mr. Riley responded that the AG strongly recommends that minutes be approved at the next meeting or no later than 30 days after that meeting. Selectman

Dretler added that those minutes must be approved within that timeframe, but not necessarily posted by that time. Mr. Riley detailed that draft minutes are also considered as record.

Ms. Bilodeau inquired about draft minutes. The response was if a request is represented, the Board has ten days to respond to that request by providing draft minutes.

Vice-Chairman Brown stated that there are acceptable reasons for final minutes being delayed; such as the Board not meeting for a lengthy period of time. Response: Agreed, adding that resignation of member(s) is another acceptable reason for delay.

Selectman Roberts asked about associated penalties. Response: Penalty might begin with a first warning, but the AG has the authority to enforce a penalty up to \$1,000. Mr. Silverstein added that there have been cases where the DoG (Division of Open Government) process is skipped and the matter goes directly to Court order.

Selectman Dretler asked for a definition of "summary." Response: Not verbatim or a transcript, but should be composed so that someone not present at the meeting would understand what happened at the meeting.

Selectman Roberts asked if there was a requirement for taping meetings. The response was this is not a requirement.

Notice of Meetings/Posting of Meetings. Must be posted 48 hours before a meeting and must include date, place, time and topic description to be filed with the Town Clerk and posted as well.

Selectman Dretler queried if all documents/packet needed posting with the agenda. Response: No, and new topics could not be discussed unless part of the posted agenda.

Selectman Roberts mentioned that citizens might bring up items not necessarily on the agenda. Response: It is acceptable to consider the citizen's comment but regulations encourage putting the topic on the next meeting agenda, if possible.

Selectman Schineller commented about change of venue. Response: Not a violation, but advised amending the notice by message, notice on the door or sending a messenger to the site directly.

Selectman Roberts asked if citizen's document could be distributed before a meeting. Response: Cannot mandate that they distribute such document before the meeting or at the meeting. Record of such report/document must be mentioned in the minutes.

Minutes/Executive Session. Mr. Riley recommended that votes be made by roll call within Executive Session and include response within ten days or declare "exempt." Review within 30 days and release appropriately when topic has been resolved.

Vice-Chairman Brown asked about vote without a full Board. Response: Minutes must be approved with a quorum and the missing members can review minutes or tape.

Ms. Bilodeau detailed that the Mullin Rule can be applied for a member to review the meeting and then vote for one time only.

A discussion followed regarding review and editing of draft minutes. Town Manager Rodrigues explained that the recording secretary views the meeting on SudburyTV, creates a draft set of minutes, sends that draft to the Board of Selectmen Office Administrator, who then performs a draft analysis and sends the draft to Board members for comments/edits. Members respond individually to the Administrator. The final draft minutes are included in the agenda packet for Board approval. Mr. Silverstein affirmed that members' comments are seen by the Administrator only and not shared with others. Contradictions between members' comments must be resolved by the Board in open meeting.

Selectman Schineller asked about task force or subcommittee meetings. Response: These groups are still subject to the open meeting law unless they comprise a “working group” appointed by a single official to help do a task she could do herself.

Mr. Riley presented ten permissible reasons for meeting in Executive Session, most typically:

- Personnel Issues
- Contract Negotiations/Bargaining
- Real Property Action
- Preliminary Screening for an Appointed Town Administrator

Discussion followed regarding meetings, hearings and Public Forums. Chairman Carty commented that the Town is required to have one Public Forum per year. Mr. Silverstein acknowledged that a Forum is an open meeting with a special purpose and theme as determined by the Board of Selectmen. Other topics discussed included tie votes, quorum, and litigation associated with a public hearing.

Mr. Riley stressed that correctly communicating by e-mail is a very critical aspect. It is fine for a member to take meeting notes for themselves, but these notes cannot be shared with other members via email or otherwise.

Selectman Dretler suggested that a social media policy be part of the Board’s policy review topic.

Mr. Riley and Mr. Silverstein next presented the Conflict of Interest Law, G.L. c.268A, and its regulations: 930 CMR ss1-7. The document included that Conflict of Interest Law applied to all “Municipal Employees” in consideration of:

- 17 – Gifts, acting as an agent
- 18 – Former employees, partners
- 19 – Financial interest in matter
- 20 – Financial interest in contracts
- 23 – Code of Conduct

It was noted that the “municipal employee” definition excluded: 1. Elected members of town meeting, and 2. Members of a charter commission established under Amendment LXXXIX to the Massachusetts Constitution.

Selectman Dretler asked for clarification about acting as an agent. Response: Formal and informal examples of acting as an agent were provided.

Many violation examples were discussed with DoG recommendations provided.

Vice-Chairman Brown moved to adjourn the meeting. Selectman Dretler seconded the motion.

It was on motion unanimously.

VOTED: To close Open Session.

There being no further business, the meeting adjourned at 12:08 p.m.

Attest: _____

Melissa Murphy-Rodrigues
Town Manager-Clerk