

SUDBURY BOARD OF SELECTMEN

WEDNESDAY, JUNE 17, 2020

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

Present: Chairman Daniel E. Carty, Vice-Chairman Patricia A. Brown, Selectman Janie Dretler, Selectman Jennifer Roberts, Selectman William Schineller, Town Manager Henry L. Hayes, Jr., Assistant Town Manager Maryanne Bilodeau, Leila Frank, Office Supervisor/Information Officer; Police Chief Nix; Dennis Keohane, Finance Director; Dan Nason, DPW Director; Town Clerk Beth Klein and Dennis Mannone, Park and Recreation Director

The statutory requirements as to notice having been complied with, the meeting was convened at 7:00 p.m., via Zoom telecommunication mode.

Chairman Carty called the meeting to order after being in executive session and resuming in open session.

Opening Remarks By Chairman

Chair Carty announced that the annual 4th of July parade was cancelled due to COVID-19, and a virtual road race will take place, with all proceeds going to the Sudbury Food Pantry.

Chair Carty stated that the property at Camp Sewataro would be open to public, beginning July 1. He suggested that people refer to the Town website for additional information.

Chair Carty congratulated everyone who participated in the Sudbury Race Amity Day food drive and live streaming presentation.

Reports from Town Manager

Town Manager Hayes initiated a moment of silence in memory of Dave Cochran, who was employed by the Town for 25 years.

Town Manager Hayes reminded everyone that the primary responsibility was not to spread the COVID-19 virus as more facilities and businesses reopen. He stressed that playgrounds in Sudbury would not have consistent trash pick-up, so people should exercise precaution and clean-up after themselves.

Regarding Town building openings, Town Manager Hayes confirmed that an update would be provided on June 22. For those who have participated in Black Lives Matter demonstrations, he encouraged participants to get tested at one of the many testing sites where testing is free.

Town Manager Hayes stated that the COA (Council on Aging) conducted a musical presentation via Zoom. He added that COA continues to offer virtual events.

Town Manager Hayes mentioned that he met with the Clergy Association earlier today.

Park and Recreation Department summer camp sign-up began with 100 registered campers. He noted that the re-opening of the Town pool will be discussed soon.

Town Manager Hayes asked the Board to schedule an additional meeting on August 11. He commented that the Town's S&P rating is AAA.

Town Manager Hayes shared that he has been enrolled in the Suffolk MMA (MA Municipal Association) Program to begin in September.

Reports from Selectmen

Vice-Chair Brown stated that she attended the recent MMA meeting, which focused on State elections and concerns of municipalities regarding educational costs in relation to COVID-19 requirements.

Vice-Chair Brown recognized that this year's Race Amity Day in Sudbury was very moving.

Selectman Roberts congratulated all Sudbury students on their last day of school, and wished all students a safe and fun summer. She thanked Sudbury Public Safety for participating in last day of school activities.

Selectman Roberts stated that the Health Department had released a statement regarding an increase in tick-borne diseases, and recommended that residents take necessary precautions.

Selectman Dretler expressed her appreciation to all of those who participated in Race Amity Day activities; namely the food drive. She thanked students and the school administration during these difficult times, and stated that she was looking forward to seeing a school re-opening plan for the fall.

Selectman Dretler reported that she attended the Water District meeting last night in person and would be attending the MAGIC (Minuteman Advisory Group on Interlocal Coordination) breakfast meeting tomorrow.

Selectman Dretler announced that Evans Carter passed away on June 8. Mr. Carter ran for Selectmen in 2017, and she expressed her sincere sympathy to Mr. Carter's family. Chair Carty echoed the achievements of Mr. Carter and also expressed his condolences to the family.

Selectman Schineller reported that he participated in the Race Amity Day conversations and acknowledged the participation and leadership of Nell Forgacs, Judy Merra, and the League of Women Voters. He mentioned that Sudbury Select Board members were in attendance.

Selectman Schineller mentioned that he attended the recent Park and Recreation meeting on June 15, which focused on the critical financial status of the Town pool. He explained that the Park and Recreation Commission established new pool rates and is curtailing operating hours.

Selectman Schineller expressed his disappointment regarding recent vandalism and thefts which have taken place at the Town playground and tennis courts.

Selectman Schineller noted he had attended the last Historical Commission meeting, which focused on letter being submitted to the MA Historical Commission regarding the Eversource project.

Selectman Schineller stated that he submitted information regarding the Sudbury Race and Equity Conversation to local legislation and Governor's Counsel.

Citizen's comments on items not on agenda

There were no citizen's comments

As the Local Licensing Authority, vote on whether to approve the applications of Da Vinci Bistro (457 Boston Post Rd), Paani Indian Cuisine (530A Boston Post Rd), Rossini's Pizzeria (418 Boston Post Road), Soul of India (103 Boston Post Rd) and Twenty-Nine Rustic Mediterranean (29 Hudson Rd) for Temporary Outdoor Seating Permits.

Da Vinci Bistro (457 Boston Post Rd)

Present: Dariusz Zywna of Da Vinci Bistro

Mr. Zywna stated that Da Vinci Bistro currently had an outdoor eating space and he requested additional seating in front, with total of 10 tables.

Selectman Roberts and Selectman Dretler suggested that an additional serving door be included. Mr. Zywna responded that another door could be used.

Chair Carty referred to written comments provided by staff and department heads, which were favorable.

Selectman Dretler motioned and Vice-Chair Carty seconded the motion.

It was on motion unanimously

VOTED: To approve the application of Da Vinci Bistro for Temporary Outdoor Seating Permit, to expire on November 1, 2020; or sooner if the State of Emergency is lifted.

Paani Indian Cuisine (530A Boston Post Rd)

Present: Sonny Verma of Paani Indian Cuisine

Mr. Verma requested additional outdoor seating on the raised patio, currently in place.

Board members presented related questions.

Chair Carty referred to written comments provided by staff and department heads.

Selectman Roberts motioned and Chair Carty seconded the motion.

It was on motion unanimously

VOTED: To approve the application of Paani India Cuisine (530A Boston Post Rd) for a Temporary Outdoor Seating Permit, to expire on November 1, 2020; or sooner if the State of Emergency is lifted; contingent on approval letter from landlord, National Development.

Rossini's Pizzeria (418 Boston Post Road)

Present: Eduardo Bragia of Rossini's Pizzeria

Mr. Bragia presented his request to utilize tents/umbrellas and barriers for outdoor serving in the parking lot.

Board members presented related questions.

Chair Carty noted that any tent or umbrella under 600 sq. feet did not require a permit. Chair Carty referred to written comments provided by staff and department heads.

Selectman Dretler recommended that the Planning Department be consulted regarding the barrier/s in the parking lot, in addition to the submission of a letter of approval from the landlord. Board members agreed.

Soul of India (103 Boston Post Rd)

Present: Dariusz Zywna of Soul of India

Mr. Zywna proposed to separate seating area by posts. He detailed that all tables are for two people and could be combined and still maintain six-foot distancing.

Board members presented related questions.

Chair Carty referred to written comments provided by staff and department heads.

The Board agreed that the perimeter of proposed seating area should be presented to the Planning Department.

Twenty-Nine Rustic Mediterranean (29 Hudson Rd)

Present: Jordan Mackey of Twenty-Nine Rustic Mediterranean

Mr. Mackey requested extension of outdoor seating.

Chair Carty stated that customers would have to go through one line of parking to get to seating. Chair Carty summarized the comments provided by staff and department heads.

Vice-Chair Brown suggested that the applicant update the Fire Department about table service not being provided.

Members of the Board agreed that the applicant contact the Fire Department and the Planning Department.

Town Manager Hayes stated that it was the responsibility of the applicant to contact the Planning Department for review of the application.

Chair Carty stated that the applicants at this meeting could present requested updates at the next BOS meeting on June 22, 2020.

Discussion and potential vote on timing of Annual Town Meeting

Selectman Dretler asked if it would be possible to conduct the Annual Town Meeting outdoors on a Saturday, and noted that some other Towns have been successful with this process.

Selectman Roberts agreed with Selectman Dretler and indicated that a meeting outside on a Saturday would benefit the Sudbury population in consideration of COVID-19 precautions.

Vice-Chair Brown commented about potential outdoor venues, adding that ADA compliance must be considered when holding meetings outdoors.

Chair Carty stated that the proposal for a Saturday Annual Town Meeting and an outdoor Annual Town Meeting were two different considerations, the Saturday aspect being easier to accommodate. He indicated that the two suggestions originated at the last COA meeting when members of that meeting requested that Selectman and COA liaison Dretler work with the Board to bring these items forward. Selectman Dretler stated that Mr. Levine said he had spoken with Ms. Dretler.

Selectman Dretler responded that she and others had interest in a Saturday meeting and agreed that the two requests regarding Annual Town Meeting reflected two different matters. She reiterated that other towns have been successful in coordinating outdoor town meetings in a short period of time, and Sudbury had the advantage of time to plan for a delayed Town Meeting. Selectman Dretler confirmed that she did not attend the June 9th COA meeting.

Chair Carty pointed out that when COA met on June 9 the Select Board had an agenda item to discuss scheduling Town Meeting.

Chair Carty went on record to state that he agreed with COA member John Beeler who maintained that a Saturday meeting might encourage more residents to vote, especially in consideration of the Fairbank Community Center Article. He detailed that Mr. Beeler also commented that the request for a Saturday Town Meeting should be “a respectful ask of the Board of Selectmen.”

Chair Carty indicated that during that June 9th COA meeting (same day as the previous BOS meeting) members of COA made several inflammatory and threatening comments against him regarding legal issues associated with age discrimination. Chair Carty maintained that any such considerations would be deferred to Town Counsel. He stated that COA member, Bob May, stated that “for all BOS members, we have to hit them over the head with a brick here,” followed by Mr. Beeler stating: “Connie and I don’t agree with a brick, maybe a bat.” Chair Carty stated that he was in support of a Saturday Town Meeting previously and after this threatening incident, is against such a Saturday meeting.

Resident and COA Chair Jeff Levine, 42 Chanticleer Road, stated that members of the COA authorized him to request that the Select Board reconsider the September 15 date for the upcoming Town Meeting in order to hold such meeting on a Saturday morning and afternoon to enable a greater number of voters to attend the meeting. Mr. Levine stated that he did not recall the comment about the brick and bat, but did not dispute it. Chair Carty added that the COA members really did not direct these threatening comments at him only, but to every member of the Select Board, when all that was required was a simple ask.

Mr. Levine stated that such language was not perceived as a threat and people say things that they do not mean literally. Chair Carty asserted that he was taking the comments made as a serious threat.

Chair Carty reiterated that recording of COA meetings had been recently enacted because various individuals felt uncomfortable about attending those meetings and a member of COA resigned due to similar actions taken by the COA.

Selectman Roberts understood Chair Carty’s feelings about the strong language used at the COA meeting. She indicated that she felt that the comments were not reflective of actual threats, but more a poor choice of words. She also recognized that COA members are passionate about the Fairbank Community Center Article. She further suggested that the current activities during the June 9th COA meeting, should not affect the decision regarding the timing of Town Meeting.

Chair Carty commented that the Board agreed in March that if such COA behavior continued, the Board would take further action. Selectman Dretler stated that punishing the Town for the comments made was not the answer. She noted that prior to these projects coming forward, the topic of Saturday Town Meetings had been suggested by many for some time.

Vice-Chair Brown commented that the statement made by the COA members stating that “it’s no harder to hold a meeting on a Saturday than on a week-day night” might not be a reliable statement. She indicated that she would like to hear staff input on this suggested schedule.

Selectman Roberts suggested reviewing the processes of other communities that have had Saturday Town Meetings and acknowledged that conducting a Saturday Town Meeting would be more challenging. She repeated her that she did not want to hold large meetings indoors due to COVID-19 and safety recommendations.

Selectman Dretler suggested exploring the outdoor Saturday Town Meeting further with Town Manager Hayes and Town Clerk Klein. Vice-Chair Brown queried about the cost of such a Town Meeting.

The Selectmen concurred that they wanted more information regarding outdoor (daytime) and Saturday Town Meetings.

Town Manager Hayes stated that LSRHS would be available for Town Meeting to be held in September and did consult with KP Law, who affirmed that additional equipment and many other considerations would be needed if

the meeting were to take place outdoors. Town Manager Hayes noted that SudburyTV would need to review the proposed venue.

Selectman Roberts asked if CARES Act funds could be used for special outdoor meeting preparations. Mr. Keohane said he would further research that aspect.

Resident Charlie Russo, 30 Juniper Road, stated that the Town of North Andover covered 31 warrant articles during its Annual Town Meeting yesterday at the North Andover football field.

Chair Carty suggested that Board members submit questions and comments regarding the possibility of an outdoor Saturday Annual Town Meeting to Town Manager Hayes. He also recommended that Town Manager Hayes confer with Town Counsel regarding a possible age discrimination legal challenge if Sudbury did not conduct a Saturday Town Meeting. Selectman Dretler asked if the Board had to vote to give such direction to Town Counsel. She suggested that if a related written communication was submitted to the Board, then consult with Town Counsel would be appropriate. Vice-Chair Brown commented that the Board should be pro-active in this situation and seek advice from Town Counsel. Selectman Dretler responded that she would watch the COA meeting and determine if the request for Counsel would be appropriate.

Mr. Levine said that one COA member mentioned the age discrimination aspect during the last COA meeting, but there was no formal motion taken. Chair Carty asserted that a motion was taken and advised all Board members to review the tape of that meeting for discussion at the next BOS meeting on Monday, June 22.

Review Town Meeting articles, possibly take positions on articles, and assign motions and presentations

Article 39 – Exchange of Real Property – Brimstone Lane parcels

Selectman Dretler stated that she wanted additional information before voting on the Article. Mr. Russo added that the Conservation Commission (ConCom) did not take a formal vote on matters associated with this Article due to the omission of certain information. He stated that an official ConCom vote on the exchange might not take place until June 29.

Article 54 – Cost/benefit study on burying overhead utility lines

Town Manager Hayes confirmed that Petitioner's Article 54 had changed. Chair Carty confirmed that the Board was not ready to vote on the Article at this meeting. He expected that the Board would consider such vote at the next BOS meeting.

Discussion on submission of Ballot questions for the Nov. 3 state election, and potentially provide ballot questions at the June 22 meeting

Ms. Klein affirmed that ballot questions would have to be submitted to the State by August. Ms. Klein provided detail regarding the ballot drafting process.

Town Manager Hayes noted that the intent was to draft the ballot language at a BOS meeting in July.

Vice-Chair Brown suggested that the Selectmen's office draft the ballot language. Board members agreed. Town Manager Hayes stated that he had not requested that staff put the ballot language together, until hearing from the Board.

Vote to approve the FY21 "1/12 Budget" for Enterprise Funds for the month of July

Town Manager Hayes presented the various items included in the 1/12th budget, specific to the Enterprise Funds.

Dennis Mannone, Director of Park and Recreation, stated that structural changes were made regarding the Atkinson Pool, including usage fees.

Dan Nason, DPW Director, confirmed that changes were made in his department to prevent overspending.

Chair Carty motioned and Selectman Dretler seconded the motion.

It was on motion unanimously

VOTED: To approve the FY21 “1/12 Budget” for Enterprise Funds for the month of July.

Discussion and possible vote on Camp Sewataro Bond

Selectman Dretler affirmed that the existing Camp Sewataro bond was taxable rather than a tax-exempt bond, in consideration of how the management bond was written. She stated that the contract could change one of the terms – the amending of the current bond to a tax-exempt bond, in order to save money for the Town.

Mr. Keohane confirmed that such change could take place. Selectman Dretler asked if the Board was willing to proceed with this change.

Vice-Chair Brown asked whether such a change would render the contract unworkable. Mr. Keohane commented that a clause would have to be included in order for the Town to terminate the agreement before such bond could be amended within 50 days.

Vice-Chair Brown commented that the possibility of an agreement being terminated within less than two months would not sound attractive to a camp operator. Selectman Dretler detailed that \$70,000 could be saved in the first year by amending the bond, and \$30,000 each year after, for the term of the bond.

Chair Carty stated that he had a discussion with the Camp Sewataro manager, who was strongly opposed to terminating and re-writing this aspect of the agreement. Chair Carty confirmed that he was not in favor of this proposal.

Selectman Roberts inquired about the current termination language used within the contract. Chair Carty responded that the agreement reflected a three-year contract with the camp operator. Selectman Dretler added there was no specific termination language within this three-year agreement.

Selectman Roberts queried about termination language within contracts. Chair Carty commented that from a business standpoint, it was very unlikely that any operator would agree to this proposal, as there was no guarantee that the agreement might be cancelled completely.

Selectman Dretler asked Chair Carty when he had related conversation with the Camp operator/manager. Chair Carty responded a week or two ago, adding that he had spoken to him a number of times regarding various items.

Selectman Schineller asked if this proposal related to termination of agreement without cause. Chair Carty confirmed. Under the proposed suggestion, Selectman Schineller opined that the three-year agreement was worthless and could be void with 50-day notice if the Board voted to support it. He asked that the \$70,000 savings amount be further explained.

Selectman Dretler suggested that the Board consider taking a vote on her suggestion.

Selectman Roberts queried about why a termination clause would affect whether or not why a bond would be tax exempt. Mr. Keohane commented that he was not a lawyer, but IRS safe haven criteria played a factor in this formation. He detailed that based on the current contract, the only way that the overall agreement would not be

changed, would be to utilize that termination clause. He explained that the \$70,000 was based on what the bond issuance would be in consideration of tax-exempt vs. non tax-exempt bonding, which presented variability every time the bond was sold. He explained that \$20,000 rather than \$70,000 would be the difference now and that changes with the yearly market conditions, could present amounts higher or lower than \$70,000 and consideration of the time the bonds were issued.

Chair Carty commented that in effort to save a possible \$70,000, the Town would lose all incoming revenue. Selectman Dretler clarified that this would be over 20 years and not a single year.

Selectman Dretler recommended that when the agreement expires in two years, the Board should re-examine the bond aspect before renewing the next camp contract agreement. Chair Carty agreed. Mr. Keohane stated the structure can be changed when the bond becomes callable, which would be sometime before the bonds are called and new bonds might be issued – likely in ten years. Vice-Chair Brown stated that in the overall picture, the Town might not be saving money.

Selectman Schineller inquired about the re-financing of any other existing bonds. Mr. Keohane responded that such re-financing considerations are continually being analyzed by the Town, and presently no bonds fit that the re-financing category. He added that bonds would likely come up for renewal in January.

Selectman Roberts mentioned that she would have liked to receive direct communication from the Camp operator saying he would not be interested in considering this proposal. She acknowledged that the current agreement would not present any incentive for the Camp operator, and wished there was another alternative to save the Town money.

Discussion on Safety and Race Community Conversation forum

Ms. Frank announced that Mr. Brandale D. Randolph had agreed to be the lead moderator of the Safety and Race Community Conversation forum. Ms. Frank stated that Mr. Brandale had considerable related experience. She also detailed that an LSRHS student is also interested in moderating the forum.

Ms. Frank explained that questions regarding public safety, administration, and schools had been submitted. She detailed that the panel selection process is underway.

Town Manager Hayes affirmed that the goal was to extend prospective in a purposeful manner.

Board members volunteered to be part of the discussion.

Citizen's Comments

No citizen's comments were presented

Upcoming Agenda items

June 22, 2020 meeting:

- The Board agreed to have another Meeting on August 11
- Financial Topics
- Tabled items from tonight's agenda: Update on Fairbank Community Center/Town Forum, Update regarding Transportation Committee, Discussion of Board Policies, Discussion on Key Performance Indicators, Review of regular session minutes of 5/5/20 and 5/12/20

Consent Calendar

Vote to approve award of contract for FY21 by the Town Manager for the repair of the Concord Road Culvert to R. Bates & Sons, said contract subject to funding approval; and further, to approve the execution of any documents related thereto by the Town Manager for said repair.

Chair Carty motioned and Vice-Chair Brown seconded the motion.

It was on motion unanimously

VOTED: To approve award of contract for FY21 by the Town Manager for the repair of the Concord Road Culvert to R. Bates & Sons, said contract subject to funding approval; and further, to approve the execution of any documents related thereto by the Town Manager for said repair.

Vote to adjourn meeting

Motion was approved and seconded.

It was on motion unanimously

VOTED: To adjourn meeting

There being no further business, the open meeting adjourned at 10:36 p.m.

Attest: _____

Henry L. Hayes, Jr.

Town Manager-Clerk

Documents & Exhibits – 6/17/20

1. Open in regular session and immediately 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.

Attachments:

- 1.a CSX Appraisal ES Memo 2020 May 12
- 1.b 2020 CSX Acquisition Timeline Revised BOS May 2020
- 1.c CSX Sudbury Rail Corridor Colliers Appraisal 20200506

2. Also to review executive session meeting minutes, pursuant to G.L. c. 30A, § 21(a)(7) “[t]o comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements” (“Purpose 7”), citing to the Open Meeting Law, G.L. c. 30A, §§ 22(f), (g).

Attachments:

- 2.a BOS Executive Session 4-4-19_for-review
- 2.b Letter to Town of Sudbury dated April 3 2019
- 2.c Simon_Memo_19.04.04
- 2.d BOS Executive Session 4-18-19_for-review
- 2.e BOS Executive Session 4-24-19_for-review

4. As the Local Licensing Authority, vote on whether to approve the applications of Da Vinci Bistro (457 Boston Post Rd), Paani India Cuisine (530A Boston Post Rd), Rossini's Pizzeria (418 Boston Post Road), Soul of India (103 Boston Post Rd) and Twenty-Nine Rustic Mediterranean (29 Hudson Rd) for Temporary Outdoor Seating Permits.

Attachments:

- 4.a Da Vinci_BOS
- 4.b Paani_BOS
- 4.c Rossinis_BOS
- 4.d Soul of India_BOS
- 4.e Twenty Nine Rustic Medit_BOS
- 4.f 6.17.20 Temp Outdoor Seating Staff Feedback

6. Review Town Meeting articles, possibly take positions on articles, and assign motions and presentations.

Attachments:

- 6.a Copy of Articles list ATM 2020 05-26-20
- 6.b Warrant Articles for 5-26 BOS meeting
- 6.c Girish_Pathak_email
- 6.d Buried_utility_cables_Pathak_update

7. Discussion on submission of Ballot questions for the Nov. 3 state election, and potentially provide ballot questions at the June 22 meeting.

Attachments:

- 7.a Klein_memo
- 7.b 2018_Ballot_Questions_Nov_6_state_election
- 7.c Town of Sudbury Information to Voters_Ballot Questions

8. Vote to approve the FY21 “1/12 Budget” for Enterprise Funds for the month of July.

Attachments:

8.a FY21 Enterprise Funds

9. Discussion and possible vote on Camp Sewataro Bond. Dennis Keohane, Finance Director, to attend.

Attachments:

9.a Bond_emails

10. Update and possible vote on Transportation Committee membership and mission statement.

Attachments:

10.a SUDBURY TRANSPORTATION COMMITTEE_update_Oct2019

10.b Transportation_comm_members

12. Discussion and possible vote on Board policies

Attachments:

12.a Selectmen Policiesfinal_May26

12.b Policy - Wikipedia

13. Discussion and possible vote on Key Performance Indicators (KPI) as requested by Selectman Schineller.

Attachments:

13.a Project Status and KPIs

14. Discussion on Safety and Race Community Conversation forum

Attachments:

14.a Safety-and-Race-Community-Conversation-Flyer_v3

15. Review regular session minutes of 5/5/20 and 5/12/20, and possibly vote to approve minutes.

Attachments:

15.a BOS_draft1_5.05.20_for_review

15.b BOS_draft1_5.12.20_for_review

17. Upcoming Agenda Items

Attachments:

17.a POTENTIAL UPCOMING AGENDA ITEMS_6_17_20