

SUDBURY BOARD OF SELECTMEN

TUESDAY NOVEMBER 30, 2020

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

Chapter 91 Public Hearing

Mass DEP

W20-5825

Present: Chair Janie Dretler, Vice-Chair Jennifer Roberts, Selectman William Schineller, Town Manager Henry L. Hayes, Jr.

Others Present: Chrissy Hopps, Assistant Director – MassDEP Waterways Program; Alice Doyle - MassDEP Waterways Program; Paul Jahnige - Mass DCR; Vivian Kimball – VHB; Katie Kinsella – VHB; Denise Barton – Eversource; J. Brook – Eversource; Barry Fogel, Applicant’s legal counsel – Keegan & Wherlan; and Mark Bergeron Epsilon Associates.

The statutory requirements as to notice having been complied with, the Public Hearing was convened at 4:00 p.m., via Zoom telecommunication mode.

Ms. Hopps opened the hearing and stated that the purpose of the hearing was to explain the proposed project and receive/encourage the submission of public comments. Ms. Hopps explained that all comments must be submitted in writing to her directly, before December 21, 2020. She detailed that ten or more citizen comment submittals would serve to waive the right of adjudicatory hearing, and noted that five such written comment submittals must be from Sudbury residents.

Ms. Hopps read the prospective hearing notices for Bridge No. 127:

“Public notice is hereby given of the Waterways Application by NSTAR Electric Company and Massachusetts Department of Conservation and Recreation to remove an existing dilapidated bridge structure and install and maintain a replacement rail trail bridge and electric transmission line over the waters of Hop Brook at Bridge No. 127, Map K09 Parcel 5000, 0 Railway, Massachusetts Bay Transportation Authority Right-of-Way (42.3598 Latitude / -71.4136 Longitude), Sudbury, Middlesex County. The proposed project has been determined to be a water dependent use project. Pursuant to 310 CMR 9.15(1)(b) and (c) the Applicants have requested an extended term license for the electric transmission lines and an unlimited term license for the bridge, respectively.”

Ms. Kinsella presented the PowerPoint display titled “Sudbury-Hudson Transmission Reliability and Mass Central Rail Trail Project Chapter 91 Licensing – Bridge 127.”

Ms. Kinsella provided summary of the Bridge No. 127 project, affirming that the existing Eversource line was 1.8 miles away from Bridge No. 127. She emphasized that the current Bridge crossing over the Hop Brook was not safe. Ms. Kinsella presented the proposed bridge plans, which proposed to raise the bridge out of the water, and would provide for safe passage over Hop Brook.

Sudbury Selectmen Chair Dretler called the Board of Selectmen meeting to order at 4:12 p.m. She acknowledged a quorum of the Board of Selectmen and conducted Selectmen roll call: Schineller-aye, Roberts-aye, Dretler-aye.

Selectman Schineller asked about alternative options to prevent destruction of bridge. Ms. Kimball asked that the question be submitted in writing.

Resident Peter Welsh, 60 Winsor Road, expressed concern regarding the safety of the Weston/Waltham portion of the rail trail, which spans some 36 feet without railing. Mr. Welsh affirmed that he expressed his concern to Paul Jahnige at DCR, who implemented temporary safety signage.

Resident Rebecca Cutting, 381 Maynard Road, mentioned her involvement in the process and wanted to be sure the public understood the various aspects of the proposed project. She provided detail regarding M.G.L. Chapter 91 and related Waterway documentation.

Ms. Cutting agreed Bridge No. 127 was unsafe. She spoke of wetland impacts and indicated that the proposed project did not qualify for a Waterways License, pursuant to M.G.L. Chapter 91. She suggested the application should be non-water dependent.

Resident and Sudbury Conservation Commission member Dave Henkels, 17 Twin Pond Lane, asked if either bridge structure would address the 100-year flood event. He inquired about the Scenic Riverways Act coming into play. Ms. Kimball responded that the project did not qualify for Riverways Act inclusion, and affirmed that she would research the 100-year flood event aspect.

Resident Richard Morse, Sudbury Conservation Commission and BFRT Task Force member, 47 Maple Avenue, expressed concern regarding the wetlands aspect and felt the process required increased protection of wetlands and waterways. He requested that the value of the project be considered in regard to wildlife as well. Mr. Morse asked if the MassDEP Waterways Program would review the process going forward (from beginning to end), with consideration going from Town/local level to the State level. Ms. Hopps stated that project status currently represented a minimal application request, and was dependent on applicant response/s to queries and comments.

Mr. Morse asked about the final decision. Ms. Hopps responded the final decision would be made by the State, adding that she would provide contacts, and recognized that Chapter 91 was not familiar to many. Ms. Hopps maintained once requests were officially submitted, she would provide the necessary materials.

Mr. Henkels asked about a potential Order of Conditions and Chapter 91 jurisdiction. Ms. Hopps replied that the two processes run concurrently, and regulation requires that environmental permits be obtained to certify applicant compliance.

Ms. Cutting affirmed the statements made by Ms. Hopps and noted that MassDEP conditioning could be included in such license. She acknowledged that numerous permits (some 20) must be granted before the Waterways License was granted. Ms. Hopps stated that the MassDEP license would not incorporate any wetlands conditions or other agency conditions into the MassDEP license.

Ms. Cutting stressed the importance of public input to be submitted by December 21, 2020.

At 4:45 p.m., Vice-Chair Roberts motioned to adjourn the meeting. Chair Dretler seconded the motion.

Ms. Hopps adjourned the Public Hearing at 4:47 p.m., and noted that the second Public Hearing would commence at 6:00 p.m.