

SUDBURY BOARD OF SELECTMEN

EXECUTIVE SESSION

TUESDAY MARCH 17, 2020

Present: Chairman Daniel E. Carty, Vice-Chairman Patricia Brown, Selectman Janie Dretler, Selectman Jennifer Roberts, Selectman William Schineller, Interim Town Manager Maryanne Bilodeau, Environmental Planner Beth Suedmeyer, Director of Planning and Community Development Adam Duchesneau, Town Counsel Lee Smith and Town Manager-Elect Henry L. Hayes, Jr.

The statutory requirements as to notice having been complied with, the meeting was convened at approximately 6:00 p.m. via ZOOM telecommunication mode.

Chairman Carty called the meeting to order.

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.

Ms. Suedmeyer explained that there have been conversations with CSX regarding proposed acquisition of a section of the rail corridor by the Town of Sudbury. She detailed that CSX would not go forward with the agreement until Sudbury signs the related P&S (Purchase and Sale) Agreement.

Ms. Suedmeyer confirmed the BFRT was on the state's priority list and the \$60,000 Mass. Trails Grant could be applied in consideration of due diligence.

Selectman Roberts queried about related grant monies remaining from last year. Ms. Suedmeyer confirmed that the Town could still apply for the \$300,000 grant. Selectman Schineller asked if Framingham would also be receiving the due diligence award. Ms. Suedmeyer responded that aspect was a separate consideration.

Selectman Schineller queried about the P&S draft information. Ms. Suedmeyer replied that such information was submitted to Interim Town Manager Bilodeau recently. Selectman Schineller understood that CSX would not negotiate the related sale with Sudbury unless Framingham participated in such negotiations, as well. Ms. Suedmeyer maintained CSX is now considering Sudbury only, because the original offer was updated. She added that Framingham has not given a specified agreement timeframe. Selectman Roberts acknowledged that Sudbury would likely move forward without Framingham participation. Vice-Chair Brown noted that Framingham had been participating in agreement extensions, as did Sudbury.

Selectman Roberts asked what action was expected of the Board at this meeting. Ms. Suedmeyer replied that the anticipated goal was to discuss P&S terms.

Attorney Smith stated that much of the draft P&S was standard. Selectman Dretler asked if there were particular aspects that were unique to this agreement. Attorney Smith mentioned the due diligence period and CSX retaining easements for utility and fiber optics considerations.

Selectman Dretler recommended that the Board be given the opportunity to view those easement locations on a site plan. Ms. Suedmeyer stated that such location map was not available at this time. Attorney Smith affirmed that such a site map would be presented.

Selectman Schineller inquired about the definition of "retained by seller," as included in the draft P&S. Attorney Smith responded that CSX sought to retain certain ownership. Vice-Chair Brown inquired about involvement of the Sudbury Water District, with special consideration of wells in the described area. She recommended that the

aspect of oil spill contamination be examined. Ms. Suedmeyer mentioned the 2008 P&S agreement which itemized data regarding soil results attributed to the previous derailment spill.

Chair Carty recommended that related P&S information must be presented to the Water District before any decisions are made, and mentioned the executive session meeting with the Water District several weeks before. Selectman Roberts noted that the takeaway from the previous executive session with the Water District reflected Water District approval of CSX acquisition. She asked if the Water District was likely to make financial contribution. Chair Carty commented that such contribution would likely be minimal and the Water District did express some concern about proximity to Town wells.

Ms. Suedmeyer agreed consulting with the Water District was important and the District would likely want to see Zone 1 well-protection measures enforced. She noted that the town of Concord and Acton have enacted such Zone 1 protection. Ms. Suedmeyer maintained that she would further research this area of protection and work with the Sudbury Water District.

Selectman Roberts asked if the Water District had concerns about trails being paved. Ms. Suedmeyer responded that Mass. DEP is likely to cap the area of contamination with consultation/direction and perhaps remove the contaminated soils and asphalt over the area. She detailed that the LSP would also direct this aspect.

Vice-Chair Brown commented CSX indicated they would not grant access to right of way for testing purposes, before the P&S was signed and she expressed the desire to hear what Mass. DEP might say about paving or not paving that area.

Chair Carty stated that he needed additional time to review the P&S and related documentation. Selectman Dretler asked about the related timeline. Ms. Suedmeyer responded that the P&S had to be finalized and signed no later than mid-April for the LSP to be able to complete the work needed.

Chair Carty asked if a 10% deposit was necessary at the time of signed P&S. Ms. Suedmeyer responded that waiver of such deposit might be possible.

Selectman Roberts mentioned she needed more time to review the draft and related materials and asked where funding would come from in consideration of Town Meeting scheduling. Ms. Suedmeyer recommended that the Town relay to CSX that we want to go forward with purchase, but do not have the funding yet.

Interim Town Manager Bilodeau suggested that an executive session be added to the next Board meeting.

Chair Carty recommended that related questions should be e-mailed to Ms. Suedmeyer.

Selectman Schineller indicated that he did not like the idea of prohibited access until the signing of the P&S. He stated that such prohibition was a possible sign of concealing something. He questioned if pieces could be sold in sections, and change the offer to reflect the quarter mile to Rte. 20. Attorney Smith responded that he was not sure how such piece purchase would affect contiguous rail between Framingham and Sudbury. Selectman Dretler suggested that it might be best for the Water District attorney to consult with Attorney Smith in this regard. Attorney Smith stated he would reach out to the Water District attorney immediately.

Chair Carty noted that time was critical and he did not want to sign anything that the Water District would not agree with.

Ms. Suedmeyer recommended that all comments be submitted to her by the end of the week so that a timely discussion could take place at the next Board meeting on March 24.

There being no further business, Executive Session adjourned at 6:55 p.m.