

IN BOARD OF SUDBURY SELECTMEN

EXECUTIVE SESSION

WEDNESDAY, APRIL 11, 2018

Present: Chairman Robert C. Haarde, Vice-Chairman Leonard A. Simon, Selectman Patricia A. Brown, Selectman Susan N. Iuliano, Selectman Daniel E. Carty, Town Manager Melissa Rodrigues, and Town Counsel Jonathan Silverstein.

The statutory requirements as to notice having been complied with, the meeting was convened at 4:30 p.m. in the Silva Room of the Flynn Building.

**Executive Session**

It was on motion unanimously

VOTED: Open in Regular Session, and immediately enter into Executive Session for the purpose of discussing collective bargaining matters related to negotiation strategy for all Town union, wherein strategy discussion with respect to collective bargaining in open session may have a detrimental effect on the bargaining position of the public body.

Town Manager Rodrigues detailed supervisory union increases for years 7/2018, 7/2019, 7/2020, and 7/2021; with increases of either 1 ½% or 1%. The supervisors in this union had been very cooperative during negotiation.

Selectman Iuliano asked if there were any particular items involved.

Town Manager Rodrigues responded that one area was drug testing language, particularly concerning accident situations. Another area of negotiation involved vacation days. Town Manager Rodrigues said that 6 out of 12 days can be used as family sick days.

Vice-Chairman Simon asked about the health insurance aspect. Town Manager Rodrigues responded that the rates are in line.

Selectman Iuliano asked what the major negotiation items were.

Town Manager Rodrigues said that the drug testing topic was one, and the Union asked for two additional vacation days and one reclassification of a particular position. She said that both of these requests were rejected.

It was on motion unanimously

VOTED: To approve the Supervisory Union Contract.

**Continue Executive Session to discuss strategy with respect to potential litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares (Frost Farm, Sudbury Station, opiate litigation), pursuant to General Laws chapter 30A, §21(a)(3).**

At 4:40 p.m., Chairman Haarde opened the discussion regarding Frost Farm, the Town-owned house that William Braun is living in and renovating, however, after many years, the renovation is still not completed.

Town Manager Rodrigues stated that the lease ends on January 31, 2019, and the lease will not be extended. She added that a letter should go out to William Braun informing him that the lease will not be renewed.

Town Manager Rodrigues said the Wayside Inn may have some interest in the house. Selectman Iuliano asked about the interest of the Wayside Inn. Town Manager Rodrigues responded that the Wayside Inn would like to do programming here, and to partner with the Town of Sudbury on this.

Chairman Haarde stated that the Conservation Commission controls the land at Frost Farm but not the house.

Town Manager Rodrigues said that there has been some disagreement about who controls the house, and added that the Town Manager controls the house.

Selectman Iuliano said that she thought it was premature to go the legislative route at this time, and Town Manager Rodrigues agreed. She further said that CPC has determined that the Frost Farm house does not have historical relevance, but it was suggested that the house could be used as a club house for the condo association and its members.

Selectman Iuliano asked if the Housing Authority had any interest, and Town Manager Rodrigues replied not.

Vice-Chairman Simon thought that selling the Frost Farm house would be the last resort and maybe special legislation is more appealing. Selectman Carty maintained that special legislation meant someone is living there and making repairs.

Town Manager Rodrigues reminded the Board that repairing the house would be rather expensive, estimating that renovation would probably cost some \$100,000.

Selectman Carty suggested that if the Town renovated the house, perhaps it then could be used for municipal purposes. Perhaps the SPS employees currently at the Fairbank Center could use this renovated space.

Town Manager Rodrigues stated that there is a question about ADA compliance. Chairman Haarde suggested bringing the property up to ADA compliance, and that office space for SPS employees might be a good use.

Selectman Iuliano said that the building would need a meeting or conference room. Chairman Haarde suggested an open office space concept with a conference room. Selectman Iuliano stated that the house has 3,600 square feet.

Chairman Haarde recommended that the Board explore the SPS scenario, send a letter to Mr. Braun, and get input from the Town Engineer.

Town Manager Rodrigues said that \$50,000 could be made available for this project.

Selectman Brown pointed out that the Town assessment card showed that the Frost Farm House has 4,600 square feet, with land area of 64.8 acres, and is assessed at \$13 million dollars.

Selectman Carty queried about the ownership at Frost Farm Village. Chairman Haarde replied that the Frost Farm Village Condo Association owns it, and he asserted it would be a good idea to do a preliminary exploration. Vice-Chairman Simon thought it would be wise to share these ideas with the new superintendent of schools.

Town Manager said that she would send out a letter to Mr. Braun tomorrow and speak to the School Committee.

Selectman Carty asked if there was any vocational school need to do a home renovation project and Town Manager Rodrigues responded that was not likely.

Attorney Silverstein mentioned that sending a letter to Mr. Braun regarding non-renewal of the property, and alerting the School Committee, was a good direction to follow now.

It was on motion unanimously

VOTED: To have Town Manager send a termination of lease letter to William Braun at the Frost Farm House, effective January 31, 2019; and contact SPS to consider employee offices at the Frost Farm house.

At 5:05 p.m., Chairman Haarde opened the discussions regarding Sudbury Station and the Melone property.

Attorney Silverstein said that a recent meeting took place at the Melone property with himself, Town Manager Rodrigues, and the environmental/40B attorney, Attorney Bill Henchy to discuss the property, what the Town would like to see, the timing of the litigation in process, and the RFP. Attorney Silverstein stated that the

prospective applicant and Attorney Henchy seemed intent on submitting a bid for Melone, but requested an extension for submitting such bid. Attorney Silverstein added that the pre-hearing conference regarding Sudbury Station was held and scheduled for continuation on the 20<sup>th</sup>. Attorney Silverstein stated that the Town response is due on July 2, with rebuttal on July 16.

Attorney Silverstein stated this is a time-sensitive circumstance in regard to Melone interest, and the continued litigation with Sudbury Station, its depositions going into September, and live testimony on October 22. This might not be a bad schedule if the Town knows the applicant's plan with Melone by July when an agreement might be reached. He reiterated that Melone is off the warrant for May Town Meeting, and added that six RFP responses on Melone had been received. In the discussion with Attorney Henchy, Attorney Silverstein felt that the developers would want to acquire the Water District parcel at Melone, and instructed him to speak with the Water District authorities. It appeared that the developers would be willing to assume the water testing requirement at Melone, and if results were favorable, they would probably assume the cost of the DEP water project needed at Melone. Chairman Haarde stated that this could be good for the Town as well as the Water District, and the Town would probably not want to sell the cell tower since that's a good source of revenue.

Attorney Silverstein told the Board that he would reach out to the Water District. If the Town could secure several good developers for Melone, this could help the situation, and also promote a Town well. He thought that the Water District would also need a separate RFP. Attorney Henchy told him that it would cost approximately \$100,000 - \$120,000 to assume the initial DEP process, and the developers would be willing to assume that cost. Attorney Silverstein detailed that it was his feeling that Christopher Claussen, the proposed developer for Melone, felt strongly in justifying giving up one property (Sudbury Station) in order to develop another property (Melone), if they could get the Water District.

Town Manager Rodrigues stated that could translate to 250 units. Selectman Brown said that ZBA could turn down a 250+ unit plan. Attorney Silverstein said that zoning could be made available, and there are still many moving parts to this situation.

Selectman Iuliano agreed that it would be good to have the Water District onboard.

Vice-Chairman Simon asked if there was a potential problem because part of the Melone property is in Concord. Attorney Silverstein responded that it probably would not be a problem, because access is in Sudbury. Chairman Haarde said that access to Melone goes through the Water District with an easement. Attorney Silverstein said he would explore that aspect further.

Chairman Haarde asked if the 250+ unit development could be deemed as an overburdening of access in Town Center. Attorney Silverstein stated that there were many possible options, and a consideration of lowering economics, if the number of proposed units is decreased. The question would be if the Town can confirm that the Housing Appeals Commission could vote on decreasing units from 250 to 30. So far there are no experts willing to take the case with this decrease. If the Town loses on that aspect, then the burden shifts to the theory that local bylaws and regulations outweigh the regional need for development. He suggested that Planning Consultant, Judy Barrett, of Horsley-Whitten, might be a good representative to make a compelling case for the Town. Attorney Silverstein summarized that it would be key to get a Performa expert who could build a case for a 30-unit development and still deem it economically feasible. Considering the Town's Housing Authority at the time of application might be another option.

Chairman Haarde reiterated that the strategy would be to defeat the Sudbury Station proposal and go forward with development of Melone. Selectman Carty agreed with the strategy.

Attorney Silverstein informed the Board that another development partner would be viewing the Melone property in the next couple of weeks.

Vice-Chairman Simon asked if the Town could still have mixed-use zoning for Melone, and Attorney Silverstein replied in the affirmative.

Selectman Brown asked if the developers were still proposing rental units here. Attorney Silverstein responded they were, and recommended that the Board authorize the Town Manager to enter into contracts with experts on the development of Sudbury projects.

It was on motion unanimously

VOTED: To authorize Town Manager to enter into contracts with experts regarding the development of Sudbury projects.

At 5:40 p.m., Attorney Silverstein presented an explanation about MOLA (MA Opioid Litigation Attorneys) and its mission to help MA communities take major drug companies to court on the assumption that many of these Fortune 500 drug companies contributed to damages done to municipalities. Attorney Silverstein explained that these drug companies used deceptive practices and marketing which led to community hardship in the areas of Workman's Compensation, increased police coverage, (including Narcan administration), employee sick time, and increased costs related to related education programs and services. Attorney Silverstein said that he was contacted by Rodman, Rodman and Sandman, P.C., one of several law firms in MA who are recognized as a MOLA firm. This is not a single class-action law suit but individual community law suits to be filed in the Boston court system and assigned to one judge. The Town could opt-out of the contract at any time, and that there was a 25% contingency fee for the law firm.

Vice-Chairman Simon asked about Judge Polster. Attorney Silverstein replied that Judge Polster has been forcing discovery with favorable order and disclosure of medical databases, suing manufacturers and distributors. There have been reports of suspicious shipments with many pill shortages.

Town Manager Rodrigues asked how many communities in MA have joined MOLA. Attorney Silverstein responded that there are some 80 communities from various sections. This is something new for the Town to get involved with as one judge will really learn about the case.

Vice-Chairman Simon stated that with no upfront cost to the Town, this is a worthy opportunity.

Selectman Brown asked about the timeframe of the law suit. Attorney Silverstein said that it could be years before the Town saw recovery, and that possible settlement would be structured over time. He suggested that the Board could authorize the Town Manager to sign a retention agreement with KP Law and associated firms in order to proceed with litigation regarding the opioid crisis, and authorizes Town Manager the ability to sign legal retention documents.

Town Manager Rodrigues said that she would complete a press release after the Board agrees to join the MOLA law suit.

It was on motion unanimously

VOTED: To authorize Town Manager to sign legal retention documents with KP Law and associated law firms; in regard to the opioid crisis.

It was on motion unanimously

VOTED: To close Executive Session and adjourn the meeting

There being no further business, the meeting adjourned at 6:00 p.m.

Attest: \_\_\_\_\_

Melissa Murphy-Rodrigues

Town Manager-Clerk