

SUDSBURY BOARD OF SELECTMEN
MONDAY, AUGUST 1, 2016
10:00 AM, FLYNN BUILDING - THOMPSON ROOM
EXECUTIVE SESSION

Present: Chairman Susan N. Iuliano, Selectman Charles C. Woodard, Selectman Leonard A. Simon, Town Manager Town Manager Rodrigues Murphy-Rodrigues, Attorney Pucci (Kopelman & Page), Selectman Haarde arrived at 10:25 a.m.

Absent: Selectman Patricia A. Brown

Executive Session

At 9:58 am, Chairman Iuliano opened the meeting in regular session and immediately voted to enter Executive Session in the Silva Room to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares (Eversource Transmission Line), pursuant to General Laws chapter 30A, §21(a)(3); and not to convene in open session.

Chairman Iuliano introduced Attorney George Pucci from Kopelman & Page who is coordinating the environmental research.

The last time Attorney Pucci met with the Board they discussed the status of getting an environmental engineer regarding the adverse effects of this project. He requested the report by the third 3rd week in July, however, he's not yet received it. Overlay plans were provided based on the report which include the project going through Sudbury and where it ends up. Each of the other plans show a blow-up:

- 5 areas show overview showing town wetlands;
- 5 areas showing proprietary wildlife habitat;
- 5 depictions of open space jurisdictional.

Attorney Pucci discussed the Overhead vs. Underground options. He thought overhead would be more aversive, and we should definitely oppose this. Ideally, it would be good to have the report, but realistically we're ahead of schedule. He recently attended a meeting with Town Manager Rodrigues, Protect Sudbury (and their Counsel), and the Attorney General's office. He also shared that in the Regis College case (Weston) there was a similar citizen group which ended up in land court. However, the project ultimately was abandoned. That could happen here.

Vice-chairman Woodard asked if the deciding board in the end rules in favor of this, can we go to court to block it? Attorney Pucci said yes, and is also in the process of checking the title to see if MBTA has rights to do this. Currently looking into get an easement.

Attorney Pucci shared that the maps are compelling which show conservation, public land, and other issues. For public land, they have to get approval of Legislature to use for a different purpose, which is Article 97. There are several parcels along the Right of Way (ROW) who are subject to article 97. He showed an example of overlays with sections enlarged.

Vice-chairman Woodard asked if the siting board can choose an option. Attorney Pucci answered there needs to be a geographical alternative. Vice-chairman Woodard asked does the alternative have to be geographical?

Chairman Iuliano said the Town's reaction has led Eversource to offer a third alternative. Can we push them to drop the overhead and do the underground ROW and the street alternative, and would this be better or worse environmental impact? Attorney Pucci answered that it would be a hard decision to make. We need consistency for position/public interest, need to think long and hard about being out of this area entirely.

IN BOARD OF SUDBURY SELECTMEN
EXECUTIVE SESSION
MONDAY, AUGUST 1, 2016
PAGE 2

Per Town Manager Rodrigues, the Federal government is waiting for our input since the issue is more powerful for the citing board. There is a meeting on August 17 with Eversource, and Eversource is getting pressure from the MBTA to go underground.

Attorney Pucci shared that if it could be done with no herbicide and “temporary disturbance” then they need to permanently maintain the resource, such as build a path and maintain it.

Selectman Simon asked where is Hudson on this? Attorney Pucci didn’t have an answer but will follow up with Hudson town administration. As the citing board looks at this, and doesn’t get an overhead request from Eversource, will they ask for a lower cost request? Has the lowest cost been put forth? Also the MBTA wants the overhead ROW. The letter from Dept. of Interior Fish and Wildlife (Federal) would have a strong impact on the decision-making. The maps show that there’s not a single area that’s not impacted. Do you have any cost comparison overhead vs. underground? Attorney Pucci answered no.

Chairman Iuliano said we don’t have exact amount – \$46K vs \$146K. Vice-chairman Woodard shared that unless you can attach a significant dollar value, people won’t vote for the overhead lines.

Attorney Pucci said maybe Eversource knows they weren’t going to get the overhead, and their fallback is underground. Chairman Iuliano shared that what they (Eversource) are telling us now is overhead vs. under the streets. That’s a concern, and that’s where we are.

Town Manager Rodrigues said that at the meeting with Attorney General they’re meeting with people with who can make decisions, not just “yes” people. Attorney Pucci said the AG typically takes a position on this. It didn’t appear they had a decision. Who was the person-Jim Hunt? Vice-chairman Woodard asked does the AG have to take position and why would they want to? Attorney Pucci answered that it’s not required, however, Protect Sudbury reached out to the AG. Are they going to take a position, or are they politically with Eversource?

Selectman Simon asked if there could be a memo from environmental groups citing where utility lines went through a conservation area and the damage it caused. This would give greater weight to environmental concerns. Selectman Simon asked Attorney Pucci to compile these memos, with the permission of Town Manager Rodrigues and Chairman Iuliano, and they agreed.

Chairman Iuliano asked Attorney Pucci, how important is this report with being protected vs. the Board/Town being blasted publically. Attorney answered it should be made public. When we see the draft report – lay out the case – make it public. He recommends doing this. Chairman Iuliano asked when we meet with them on 8/17 would it be premature to discuss the report? Town Manager Rodrigues responded that we need to draw them out and put them on the spot to get specific answers.

Chairman Iuliano said that another possibility is Protect Sudbury plans to meet with Matthew Beaton (Secretary of Energy and Environmental Affairs). Can the BOS join? If this meeting is weeks away, if we have the report time is limited. When this report is in draft, finalized, would you share with Protect Sudbury? Attorney Pucci said he’d need authorization from the Selectmen. Need to see draft report without releasing it, and then meet again before it’s finalized.

Selectman Simon reiterated about the memo he mentioned earlier outlining the environmental impact, and citing the law and recent decisions regarding environmental protection. These need to dovetail and support each other to give greater weight to environmental concerns.

Chairman Iuliano asked what else do we need to do between now and when they (Eversource) file? Vice-chairman Woodard said we need to see the report before we decide.

IN BOARD OF SUDBURY SELECTMEN
EXECUTIVE SESSION
MONDAY, AUGUST 1, 2016
PAGE 3

Attorney Pucci said if they prove it has to be in Sudbury, is that really your (BOS) position - street option vs. underground ROW?

Selectman Simon asked what's the agenda for the 8/17 meeting? Chairman Iuliano answered, possibly discussing alternate routes; we don't know. Attorney Pucci said it could be just providing extraneous information.

Selectman Simon asked if it's reasonable to ask the citing board about the underground option (the lesser of 3 evils)? Attorney Pucci said we can take a position on better alternatives. It's going to be a tough position. Town Manager Rodrigues said that Protect Sudbury is opposed to the ROW plan.

Selectman Simon asked could we have a video showing the impact? Would be costly, but valuable. A picture is worth a thousand words. Attorney Pucci agreed it would be a good idea. That's how to convey the experience, and the facts will show it.

Chairman Iuliano said we need to look at next steps. Once the report is done, it will be in draft, how will we use the report and release the report? May or may not do the filing on Sept. 1st.

Chairman Iuliano asked if there are any other short-term issues or other questions? Attorney Pucci isn't sure about result of the title exam. He will Contact Paul Churnick. Need to get back on the radar for viable alternatives and more details. Town Manager Rodrigues said that as soon as the report comes in, we'll share it with the BOS, however, keep it confidential first.

Chairman Iuliano made motion to adjourn, which was seconded by Vice-chairman Woodard.

It was on roll call unanimously
Chairman Iuliano aye; Selectman Woodard aye; Selectman Haarde aye; Selectman Simon aye;

There being no further business, the meeting adjourned at 10:58 a.m.

Attest: _____
Melissa Murphy-Rodrigues
Town Manager-Clerk