

SUDBURY BOARD OF SELECTMEN
WEDNESDAY, SEPTEMBER 7, 2016
5:00 PM, FLYNN BUILDING - THOMPSON ROOM
EXECUTIVE SESSION

Present: Chairman Susan N. Iuliano, Selectman Charles C. Woodard, Selectman Leonard A. Simon, Town Manager Melissa Murphy-Rodrigues, Attorney George Pucci (KP Law)

Absent: Selectman Patricia A. Brown

Executive Session

At 5:00 pm, 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.

VOTED: All Board members present voted unanimously to enter Executive Session

Chair Iuliano opened the meeting. Where do we stand with Eversource? What are next steps with environmental/engineer's report? Are there any experts we need at this stage?

Attorney Pucci received a memo from Selectman Simon sharing his thoughts in putting together an advocacy document to be reviewed by the Board and possibly post to the website. He started going through the citing board appellate decisions. What position does the Board want to take? We should complete the research, go outside MA if necessary. We are not getting the type of advocacy from expert witnesses that we want.

Attorney Pucci shared a couple of things about the engineer's report – not making excuses for it. No one wants to work on this. The environmental report is still inadequate. He went back to the engineer and asked for certain items to be re-written. What's at stake re: contamination for example? We don't have this in the report they said it wasn't a problem.

Chair Iuliano shared that the environmental report is our work product – it's highly confidential – not disclose to a third party. The report does have some good information; good evidence.

Selectman Woodard asked are we in any position to challenge this need for the project? Do we have traction for MBTA to take the overhead option off the table? Can it be taken off the lease? Town Manager Rodrigues responded the last call with MTBA said we're working on it. Now Eversource said the lease has changed; one for overhead and one for underground.

Chair Iuliano stated MBTA would be paying less to Eversource for underground. She asked of Atty Pucci, in these settings are there settlements? Bargaining chip? His response was yes.

Atty Pucci said we need to narrow our focus as to what makes more sense, then we can direct what to do for litigation.

Selectman Haarde referred to Selectman Woodard's point on the MBTA route. The original land taking was that it was needed for transportation. Now it's being used for something other than transportation. Do we have a legal issue? Atty Pucci responded we have title examiner working on Right of Way. Is there anything that restrict use as title holder?

Selectman Simon asked is binding arbitration a potential option? Binding arbitrator could give us a view of where we can go. Who has the authority to make decisions and where? Eversource isn't going to walk away from this.

Atty Pucci doesn't believe the engineer is corrupt. He finds the expert credible, but the report looks wishy-washy. Frankly he's not finding an overwhelming adverse environmental impact.

Chair Iuliano shared that she's met with Protect Sudbury. There are still adverse impacts from underground. Eversource will push the underground since there will be a Rail Trail already there. Why would the Town oppose the underground around the ROW? Chair Iuliano said Protect Sudbury might have a chart showing a Rail Trail that Eversource would support.

Atty Pucci asked the Board, you need to figure out your position. Do you want to have an internal wish list of what you'd want?

Selectman Simon said we would want underground in street first, and no overhead in Sudbury. We cannot support a transmission line along the ROW; we don't have legislators behind us. What can we do and what should we do?

Atty Pucci asked is Rte 20 your best option? Selectman Haarde said we have three options - overhead ROW, overhead Old Lancaster Rd, past 500 homes.

Chair Iuliano asked should we be reaching out to Eversource about taking the overhead option off the table? Eversource will meet with Board of Selectmen before they file; tentative dates are late October.

Selectman Simon shared what needs to happen is this Board needs to meet with Atty Pucci on timelines as to decisions we have to make and work with Eversource, see the path forward from here, meet and look at possibilities, and likely arguments from Eversource. We don't want to get to the point of litigation with the citing board.

Town Manager Rodrigues shared that maybe she and Atty Pucci can work on strategies to present at the next meeting. Atty Pucci said we need to look at every option under the street. Title exam hopefully completed this month.

Need to have another meeting. What works? Last week in September – the 26th?

It was on roll call unanimously

VOTE To close Executive Session and not reconvene in Open Session.

Chairman Iuliano aye; Selectman Woodard aye; Selectman Simon aye;
There being no further business, the meeting adjourned at 6:10 p.m.

Attest: _____
Melissa Murphy-Rodrigues
Town Manager-Clerk