

IN BOARD OF SUDBURY SELECTMEN
WEDNESDAY, APRIL 5, 2017
EXECUTIVE SESSION

Present: Chairman Susan N. Iuliano, Vice-Chairman Charles C. Woodard (participated remotely), Selectman Robert C. Haarde, Selectman Leonard A. Simon, Town Manager Melissa Murphy-Rodrigues.

The statutory requirements as to notice having been complied with, the meeting was convened at 2:01 p.m. in the Silva Conference Room, Flynn Building, 278 Old Sudbury Road.

Chairman Iuliano read aloud the first item: Open in regular session, and vote to immediately enter into Executive Session regarding strategy with respect to potential litigation if an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares (Eversource), pursuant to General Laws chapter 30A, §21(a)(3).

Seconded by Vice-Chair Woodard, all voted eye.

Chairman Iuliano opened the meeting. She shared that Attorney George Pucci responded to Eversource that he's not comfortable with timeframe. Ms. Iuliano proposes that this isn't the right agreement at the right time to enter into prior to filing the petition. There are other factors that play into it. There are disadvantages into rushing into the proposal. She thinks we should pause, get through Town Meeting, regroup, then decide what to do with negotiations. Need to make decisions after we've seen the petition.

Vice-Chair Woodard asked what's the advantage to agreeing to something when we haven't seen the petition? We need unanimity on the Board on something as important as this.

Selectman Simon said he's concerned for a number of reasons. This has been going on for 6-8 months. We can't control Eversource. They told us they'll advocate for underground on ROW – MBTA and DCR supports this. Hudson is in favor of this. The Executive Summary tells us what they're going to do. He's concerned about continuing to negotiate in secret. There is no subcommittee. If Eversource files with siting board regarding the underground route, and it gets out that Sudbury was negotiating with them, it doesn't look good. If we say we asked counsel to look into this – making the preferred route underground ROW – then we can claim we persuaded Eversource to do this. This is in the best interest of the Town. We may avoid getting into expensive litigation. Regarding conflict of interest law complaint, he went back to his memo about Hudson being in favor of the underground ROW. We'd be better off to step forward and let the public know what's happening. If not, we could be perpetuating a 'mess' since we don't have an agreement. To continue this without making it public is the wrong way to go.

Chairman Iuliano asked if we should continue to negotiate before petition is filed or wait? Selectman Simon responded that counsel should suggest that Sudbury can put out a press release that we have spoken to counsel and have major objectives, and that overhead is not the preferred route.

Vice-Chair Woodard suggested that the Board ask for termination of the confidentiality agreement. We tried to negotiate with Eversource to get overhead off the table which wasn't successful.

Chairman Iuliano shared that we asked Eversource specifically if underground is preferred and they said 'no.' We shouldn't make anything public until we see the petition.

Selectman Haarde directed a question to Town Manager Rodrigues. After we go through the siting board process, what Town boards and committees do they (Eversource) have to go through? She responded the Conservation Commission (ConComm). With a substation they'd need to go before the Planning Board and possibly the Zoning Board of Appeals (ZBA). Selectman Haarde has concerns about Eversource wanting our

help to streamline this process. Maybe ConComm and ZBA should look at negotiating, and maybe change the way we're approaching it.

Selectman Simon shared that Eversource does whatever they please. The more this lingers on, the more risk we're taking. He's uncomfortable with our current position. Someone is going to come back to us and we didn't say a word to the Town about this?

Selectman Haarde said we couldn't say this because of the confidentiality agreement. Unfortunately, it's a catch-22. Hudson said they're going to establish negotiations in executive session, and they got blasted for it. We took a chance to see if we could make it happen – take overhead off the table – but we don't have anything to say is a win for the Town.

Chairman Iuliano said we don't need to publicize the fact that we're still negotiating. If we have to negotiate after the petition we would do it differently. Need to see the petition first before we can position it to the public.

Selectman Simon shared there should've been a committee formed to work out the best possible deal. Is there anything to tell the public that we're talking with Eversource? Town Manager Rodrigues responded that the original offer was only to speak with Eversource in confidence. We already did a detailed risk-analysis.

Vice-Chair Woodard said we talked with Eversource about conditions, and we tried our best to get the best outcome. Chairman Iuliano said the Town knows we're talking with Eversource. However, Selectman Simon opined that there's never been a public statement from the Board.

General discussion amongst Board members about what should we do next? We are where we are. We tried but it didn't work. What's best for the town? Need to decide what is being communicated with Eversource. Board will not enter into an agreement until they see petition.

Town Manager Rodrigues and Vice-Chair Woodard both agreed about asking Eversource to take overhead off the table; that's why we can't negotiate.

Chairman Iuliano made the following motion, which was seconded by Vice-Chair Woodard.

VOTE: Communicate to Eversource that Sudbury is no longer looking to seek to negotiate a Host Community Agreement (HCA) at this time because the overhead option remains on the table, and Sudbury hasn't had adequate opportunity to review the siting board petition.

Woodard-eye Iuliano-eye, Simon-no, Haarde-eye

Selectman Simon feels this doesn't give us further leverage in speaking with Eversource.

He was asked what motion would he support? Example is below:

Conclude negotiations with Eversource quickly under the terms we conveyed to them, and do so before the petition is filed with siting board. View the petition itself and conclude negotiations on open issues. Then agree to conclude confidentiality agreement so that Sudbury can make a public statement before Eversource can file with siting board. Include critical components of executive summary with petition. We remain open to entering into future discussions to negotiate a HCA after the petition is filed.

Vice-Chair Woodard said there's a fundamental issue. We shouldn't be entering into an agreement unless the Board is unanimous. If we're not unanimous it's not a good idea for final agreement.

Selectman Simon suggested what about if we follow Hudson's lead? Form a committee to negotiate with Hudson?

Susan shared that the confidentiality agreement is still in force, and she's concerned about releasing Eversource from that agreement. There should be no reference to it in the petition.

Selectman Simon asked if Eversource files this and the siting board intervenes, at some point can we get something more, assuming they file underground petition?

Vice-Chair Woodard said that everything we can get in the agreement is negotiable except the dollar amount. Is the Town of Sudbury the deciding factor on whether they proceed with the underground option?

Chairman Iuliano stated that for now we decided we're not in negotiation. They can't talk about this in their petition. Confidentiality agreement is still enforced non-disclosure agreement. Should we reaffirm that position?

Motion seconded by Vice-Chair Woodard – there will be no discussion.
Vote – all in favor? Haarde eye, Woodard, eye, Simon eye.

Selectman Simon asked, what happens now? Town Manager Rodrigues responded that we still need to intervene no matter what. If they agreed to pay attorney fees, it would be easier decision for the Board to make. Based on conversation she had with someone it could be filed either/or underground. The MBTA would talk about a lease if the siting board awarded it above ground. MBTA does not have a lease yet. They normally do before they file, but this is political.

Vice Chair Woodard said we can't agree to something unless it's unanimous. The HCA needs to be supported unanimously.

Chairman Iuliano asked if there's anything else to discuss?

A motion to adjourn was made by Vice-Chair Woodard; all voted in favor.

There being no further business, the meeting adjourned at 3:16 p.m.