

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, NOVEMBER 28, 2017
EXECUTIVE SESSION (10:22 P.M – 10:55 P.M.)

Present: Chairman Robert C. Haarde, Selectman Susan N. Iuliano, Vice-Chairman Leonard A. Simon, and Town Manager Melissa Rodrigues

Eversource

At 10.22 p.m., Chairman Haarde opened a discussion regarding Eversource's Sudbury-Hudson Transmission Reliability Project. The Board was previously in receipt of copies of an email from BCK Law, P.C. attorney Audrey Eidelman dated November 16, 2017 and accompanying draft letter.

Chairman Haarde referenced the draft letter, and he stated the Town's lawyer recommends reaching out to Eversource at this time, noting Counsel believes it is the right thing to do.

Vice-Chairman Simon stated he has concerns about sending the letter and where it takes the Town in the process. Town Manager Rodrigues stated Counsel believes it would be helpful for the Town to show it is reasonable by offering to work together.

If the draft letter is sent, Selectman Iuliano stated she has concerns regarding prior discussions and not altering the terms of the non-disclosure agreement.

In response to a question from Vice-Chairman Simon, Town Manager Rodrigues stated the letter, if sent, would be public correspondence.

Vice-Chairman Simon asked if Hudson might also want to request the suspension of the current proceedings. Town Manager Rodrigues stated she has been in contact with Hudson officials, but she believes they have only presented a case regarding water and conservation.

Vice-Chairman Simon stated Sudbury has invested a lot of money in the process to date, and he would want to ensure any actions taken do not undermine efforts taken to this point.

Town Manager Rodrigues stated Counsel has advised time is of the essence for sending the letter out this week.

Chairman Haarde stated he believes it is worth sending the draft letter because Eversource might possibly want to avail itself of a graceful exit from the proposed project.

Vice-Chairman Simon stated the Town has made a strong argument to date that the transmission reliability line is not needed. He questioned whether language in the draft letter regarding revisiting an alternative route undermines this legal argument. Vice-Chairman Simon stated he would want to know what other route would actually be proposed. He further questioned if consideration of another route would involve other towns and new abutters.

Chairman Haarde stated he thinks it is premature to try to play out what the conclusions might be from sending the letter. He believes sending the letter gets the Town to the table, but the Town does not necessarily have to agree to anything. Chairman Haarde stated he thinks making the offer to Eversource is a good idea.

Vice-Chairman Simon stated he would like to better understand what the Town's goal is in sending the letter.

Town Manager Rodrigues suggested calling BCK Law, P.C. attorney Jeff Bernstein, and a brief conference call with the Board ensued for Mr. Bernstein to answer questions. Mr. Bernstein stated Eversource's case with the Siting Board has been weaker than expected and the hearing dates are being extended. He stated he believes it is a good time for the Town to take the high road by reaching out.

Vice-Chairman Simon asked if the letter presents a risk that the Town is acknowledging there is a need for the transmission line. Mr. Bernstein stated the Town is not conceding anything by sending this letter.

Vice-Chairman Simon asked what the percentage chance is for success from sending the letter. Mr. Bernstein stated he would estimate a 2% chance of Eversource agreeing to work with the Town.

Selectman Iuliano stated she believes it is important to not undo prior confidential communications and the terms of the non-disclosure agreement, and that future communications would continue to be confidential. Mr. Bernstein stated all communications would remain confidential.

The Board thanked Mr. Bernstein for his time and the conference call was ended.

Vice-Chairman Simon stated he is not strongly in favor of sending the letter, but, he is also not strongly opposed to it. He believes any action the Town takes towards Eversource should be strong.

It was on motion and on roll call unanimously

VOTED: To support sending the letter from the Board of Selectmen's Chairman, on behalf of Sudbury, to Eversource, as reviewed and discussed tonight, Selectman Susan Iuliano, aye and Chairman Robert C. Haarde, aye. Vice-Chairman Simon abstained from the vote.

Town Manager Rodrigues stated the Town is out of money for funding the legal opposition to Eversource. She stated the Town has spent approximately \$260,000 since funds were appropriated at the October 2017 Special Town Meeting, partly due to an increase in the budget for experts and daily hearings. Town Manager Rodrigues stated she plans to ask the Finance Committee for \$200,000 to be transferred to this legal effort from the Finance Reserve Account. She emphasized this will make budgeting difficult for the remainder of the year, but she has no other choice. Town Manager Rodrigues also stated more funds for legal costs may need to be requested at the May 2018 Town Meeting.

Town Manager Rodrigues stated she has received communications from the Accounting Department regarding the need for updated votes on BCK Law, P.C. thresholds. She will further discuss this with the Accounting Department to understand what is needed from the Board.

The question was raised regarding whether legal representation should be present during Eversource hearings which do not include the Town, but possibly other relevant parties. It was noted there are notes available provided by court reporters. Town Manager Rodrigues stated the Town could possibly save money by not having attorneys present, depending on the subject matter. The consensus of the Board was for one attorney to be approved to attend, if the hearing content is significant.

It was on motion and on roll call unanimously

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VOTED: To adjourn the 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 (Eversource), pursuant to General Laws Chapter 30A, section 21 (a) (3), and not to enter back into public session, Selectman Susan Iuliano, Vice-Chairman Leonard Simon, aye, and Chairman Robert C. Haarde, aye.

There being no further business, the meeting adjourned at 10:55 p.m.

Attest: _____
Melissa Murphy-Rodrigues
Town Manager-Clerk