

MEMO

TO: SUDBURY BOARD OF SELECTMEN, TOWN MANAGER
FROM: LEN SIMON
DATE: AUGUST 20, 2013
RE: THE BRUCE FREEMAN RAIL TRAIL IN SUDBURY

HISTORY AND BACKGROUND

A north-south railroad line has been in place in Sudbury since the 1870's. The railroad line ran from Lowell to Framingham, through the communities of Lowell, Chelmsford, Westford, Carlisle, Acton, Concord, Sudbury, and Framingham.

A small section of the railroad line was in use until about 20 years ago, when its use was discontinued. When this last section railroad line was no longer used, the state took possession of the rail bed from the Lowell/Chelmsford line south to the crossing of the former Boston to Northampton line just north of Route 20.

The state determined the rail corridor land could be transformed into a multi-use path, and provided most of the funding to make that a reality, if designed and built to state standards. However, the state permitted the residents of the towns along the rail corridor to determine the specifics of how the rail corridor would be developed. If the rail corridor path was not designed to MassDOT standards it would not be eligible for construction funding, typically 90% of the total design and construction costs.

In the 1990's, a state Department of Transportation study determined that the transformation of the rail corridor into a rail trail was feasible. In 2003, the Sudbury Board of Selectmen appointed a committee, the Rail Trail Conversion Advisory Committee, to study options for a rail trail in Sudbury.

Each and every one of the communities along the rail corridor north of Sudbury has taken the steps needed to turn the abandoned, dormant rail corridor into a standard rail trail. A standard rail trail means the trail has been designed and constructed to Massachusetts Department of Transportation (MassDOT)

standards. These incorporate recommendations developed by the American Association of State Highway and Transportation Officials (AASHTO). The three points of paramount importance in AASHTO standards are: SAFETY, HANDICAP ACCESSIBILITY, and MAINTAINABILITY. These standards have been, and continue to be, used nationwide for roads, bridges, and railroad beds converted to rail trails. A standard rail trail allows for multiple uses, including transportation and recreation. A standard rail trail takes functionality, maintenance, and safety into account.

When designed and constructed to MassDOT standards, a rail trail is eligible for construction funding from the state and federal government. The town pays for the design, typically 10% of the total cost of the rail trail, and the state and federal government pays for construction, which is generally 90% of the total cost. This is a bargain by any measure. The town gets a great functional amenity, and leverages its money 9 to 1 with state and federal funds. It makes good economic sense. For Phase 2 of the trail in Acton, Carlisle, Concord, and Westford, additional state money was made available for design that end will probably increase this ratio even higher than 9 to 1.

6.8 miles of the Bruce Freeman Rail Trail (BFRT), designed to MassDOT standards, and 90% funded by state and federal funds have been built in Lowell, Chelmsford, and Westford. Further sections of the BFRT, designed to MassDOT standards are slated to begin construction in 2014 in Acton and Carlisle. Concord has approved its section of the BFRT, again designed to MassDOT standards, and construction will begin in 2016. A bridge over Route 2 for the BFRT is being designed and construction will begin in 2017.

All 18 miles of the BFRT from Lowell to the Concord/Sudbury border have been designed to MassDOT standards, and all construction to date and planned construction complies with MassDOT standards.

The environmental concerns of each town have been taken into account and addressed along every inch of the BFRT. In fact, state environmental regulations

themselves protect wildlife and wetlands, and do not run roughshod over them. Where necessary, mitigation is used to protect the environment. Sudbury itself has done the same thing when it has built a road or walkways.

Abutters to the rail trail can request screening or fencing, paid for as part of construction costs, if the trail runs adjacent to their property.

2012 ANNUAL TOWN ELECTION

On March 26, 2012, after 10 years of meetings, study, reports, debate, and discussion, the town voted on two questions regarding the rail trail. First, the town voted 2288 to 1040, i.e., a margin more than 2 to 1, to bring the Bruce Freeman Rail Trail to Sudbury. The argument in the official warrant in support of bringing the BFRT to Sudbury states:

The trail will not be just a bike path, but also a facility for walking, running, inline skating and cross country skiing and snowshoeing in winter.....State and federal funds will cover the entire cost of construction.

Second, on March 26, 2012, the town voted 2261 to 1056, again by a margin of greater than 2 to 1, to “move forward” with designing the portion of the BFRT from the Concord/Sudbury border to Rt. 117 at Davis Field. The summary of this question, as well as the argument in support of this question, made it clear that portion of the BFRT would be designed to MassDOT standards:

The Friends of the Bruce Freeman Rail Trail have offered to donate approximately \$50,000.00 to pay for a preliminary design study adhering to Massachusetts Department of Transportation (MassDOT) guidelines for this segment of the larger trail.

(See attached 2012 Official Warrant, March 26, 2012 Annual Town Election, and election results.)

2012 ANNUAL TOWN MEETING

On May 8, 2012, residents stayed to the very end of Annual Town Meeting to restate their solid support for the same two questions that had been on the March 2012 ballot, even though such questions were not binding. Article 34,

bringing the Bruce Freeman Rail Trail from the Concord line to Union Avenue passed “overwhelmingly”. Article 35, moving forward with the design of the half mile from the Concord border to Route 117, passed by “more than a majority”.

The minutes of 2012 Annual Town Meeting note that Dick Williamson spoke on behalf of the over 2000 town residents who voted in support of a rail trail and stated that other towns have built the rail trail according to Massachusetts Department of Transportation standards in order to qualify for state funding. He also noted Sudbury residents were sensitive to environmental concerns and a parking issue. (See attached minutes of May 8, 2012, Annual Town Meeting, pp. 66-68)

DISCUSSION

In light of the written information available to the residents when they voted on March 26, 2012, and the minutes of 2012 Annual Town Meeting reflecting the oral presentations, it cannot be said the Sudbury residents did not understand the issues before them. To the contrary, it appears the voters were well informed and their votes were consistent.

The Board of Selectmen asked the residents what they wanted. The residents, twice, answered they wanted the BFRT, built to MassDOT standards, brought to Sudbury, and that they wanted to proceed with the design of the northernmost half mile from the Concord/Sudbury line to Route 117. The citizen legislators of Sudbury provided the Board of Selectmen with clear direction and instructions. It is our duty, as Selectmen, to carry out those instructions.

On July 29, 2013, the concept committee presented its findings to this board for their consideration, and four options were discussed.

- Expansion of current walkway system

- Segmented / Bypass Trail

- So-called green way – 5-8 feet wide

- Full build – to MassDOT standards (AASHTO)

I have reviewed and studied each of the four options, and the pros and cons of each.

I have weighed each of the four options, taking into account three major considerations:

Usability and functionality - for the greatest number of residents in different weather conditions.

Cost – cost to build and cost to maintain

Safety – taking into account: 1) the width and quality surface of the rail trail bed, 2) the ability to pass other users traveling in the same or opposite direction, and 3) accessibility for emergency vehicles. To build a rail trail that is unsafe, such as a 5 to 8 foot wide greenway, would be the height of irresponsibility.

The so-called greenway option and full build/standard option both follow the rail bed/corridor, and pass the same streams and wetlands, so environmental concerns would not be significantly less for a so-called greenway.

Environmental concerns have been satisfactorily addressed and mitigated throughout the course of BFRT where it has been built, and where the design studies have been done. I know of no instance, on any rail trail built in Massachusetts, or New England, where environmental concerns cannot be mitigated. Accurate assessment of environmental impact can only be determined by conducting the 25% design study.

An additional environmental benefit of a non-porous (e.g. asphalt) surface on a railroad bed is that it caps contamination/hazardous substances that may have accumulated from decades of use by the railroads.

The Massachusetts Chapter of the Sierra Club, the leading environmental organization, has endorsed construction of the entire BFRT.

After reviewing the concept committee's report presented to the BOS on July 29, 2013, my conclusions mirror the town's votes. That is, that a standard rail trail is,

by far, the best option for Sudbury, taking into account cost, safety, accessibility, maintainability, and functionality.

CONCLUSIONS

In recognition of the town's desires and express directions, and my own evidence – based decisions, I can support the following motions:

First motion:

That the Board of Selectmen accept the offer of the Friends of the Bruce Freeman Rail Trail to raise sufficient funds (\$58,700.00) to conduct the so-called 25% design study, to MassDOT standards, for the northernmost half mile of the Bruce Freeman Rail Trail, from the Concord/Sudbury border to Rt. 117.

Second motion:

That all further design and planning for the Bruce Freeman Rail Trail in Sudbury proceed in accordance with MassDOT standards, and that staff work with state officials, departments and agencies to accomplish such design and planning.

From: Leonard Simon [mailto:lensimon@comcast.net]
Sent: Thursday, October 10, 2013 12:53 PM
To: Nix, Scott
Cc: Selectmen; Golden, Patricia
Subject: Re: Draft copy Alcohol Rules & Regulations

Hello Chief Nix,

I am writing in regard to the draft Alcohol Rules and Regulations. I have just a few comments and suggestions.

First, I think the term 'violation' should be defined in the Rules and Regulations.

In the case of the recent violations at Soul of India, if my memory is accurate, there were two underage operatives who were served an alcoholic beverage. I feel this should be considered two violations, not one. Going forward, a violation should be defined as service to an underage individual, and not one violation no matter how many individuals were served. In that regard, as you may have future alcohol compliance checks, one individual could be of legal age and the other under legal age.

Second, I would add some sort of consequence for the failure of a licensee to have its employees trained in accordance with the Employee Training as set forth in that portion of the draft Rules and regulations. It might be worthwhile to consider such a failure as a 'violation', for the sake of consistency, clarity, and importance.

Failure to have the requisite license posting could be defined as a 'violation', for the reasons cited above.

In the section titled 'Disciplinary Remedies/General Approach' I feel the time window of 36 months is simply too short. I would extend it 60 months, at least.

Finally, in the event of a violation, I would add a paragraph (either in Violations or Disciplinary Remedies/General Approach) requiring a licensee to submit a written explanation of how and why the violation occurred, and its plan to ensure future compliance. I believe this would go a long way toward enhanced compliance going forward.

I appreciate the opportunity to offer comments and suggestions.

Len Simon

From: "Patricia Golden" <GoldenP@sudbury.ma.us>
To: "Selectmen" <Selectmen@sudbury.ma.us>
Cc: "Scott Nix" <NixS@sudbury.ma.us>
Sent: Wednesday, October 2, 2013 11:26:19 AM
Subject: Draft copy Alcohol Rules & Regulations

Good morning Board,

Attached is a draft copy of the Alcohol Rules & Regulations provided by Chief Scott Nix at last night's meeting. Would you please carefully review this document and provide your edits/input to Chief Nix by Tuesday, 10/15. Hopefully this will allow sufficient time to have the document ready for your vote at the 10/22 meeting. The annual license renewal process begins in late October, so the sooner this document is finalized, the better.

Thank you very much for your cooperation.

Patty Golden
Senior Admin Asst to the Town Manager
Town of Sudbury
Ph: 978-639-3382
Fax: 978-443-0756
www.sudbury.ma.us

When writing or responding, please be aware the Secretary of State has determined that e-mail is a public record and thus not confidential

From: Leonard Simon [mailto:lensimon@comcast.net]

Sent: Thursday, January 16, 2014 1:21 PM

To: Community Preservation Committee

Cc: Selectmen

Subject: Rail trail design study funding request

Dear Members of the Community Preservation Committee,

I am writing in response to Ms. Kablack's email raising the question about reducing the level of funding requests to the CPC.

This note pertains only to the Board of Selectmen's request for funding of the initial design study for the Bruce Freeman Rail Trail that I presented on behalf of the Board on December 4, 2013.

I understand your dilemma, and appreciate that you would like to fund all requests in full, but I am also aware there is simply not sufficient funds available to meet all requests in full.

If I could reduce the amount of the Board of Selectmen's request for funding for the initial design study for the rail trail I would do so out of respect for other worthy projects, and in the spirit of accommodation with so many others who have worked equally hard.

However, I cannot reduce the funding request for several reasons. First, it is an all-or-nothing project. If we cannot fund the expected cost of the initial design study it cannot be done at all. Second, I received a good faith estimate of the cost of the design study from a vendor who is in the business of doing these studies, and has actually done work on the Bruce Freeman Rail Trail. That estimate, I believe, has neither fat nor waste. I hope the proposal comes in under the anticipated cost, but, if it does it will not be by much. I would not want to put the entire project in jeopardy by underestimating the cost of the initial design study.

Third, the Bruce Freeman Rail Trail has been the subject of discussion in town for at least 10 years, and residents have repeatedly asked for action on it.

Fourth, the offer from the Friends of the Bruce Freeman Rail Trail to contribute over \$58,000 toward the cost of the initial design study (close to a quarter of the cost) could be withdrawn if not accepted this year, in which case the entire burden would fall to the town.

Fifth, the residents voted overwhelmingly at the ballot box in March 2012, and again at town meeting, in favor of bringing the Bruce Freeman Rail Trail to Sudbury, and for acceptance of the offer of funding for the design study from the friends of the BFRT.

Thank you all for your time and hard work on behalf of the Town, and I wish you well as you tackle the difficult decisions you are facing.

Thank you also for having me at your meeting last night and for the opportunity to address you.

Len Simon

Selectman

From: Leonard Simon [mailto:lensimon@comcast.net]

Sent: Monday, August 04, 2014 10:05 AM

To: Board of Selectmen

Subject: BFRT

Fellow Selectmen,

Attached please find a memo I have asked to be included in the packets for our August 19, 2014, meeting.

Len

MEMO

TO: Board of Selectmen, Maureen Valente
FROM: Len Simon
DATE: August 4, 2014
RE: Bruce Freeman Rail Trail

At the conclusion of the BOS meeting on July 22, 2014, I was concerned about the way the discussion on the Bruce Freeman Rail Trail unfolded and concluded. Something just did not seem right to me. After thinking about it, the reasons became clear.

On July 22, the Planning and Community Development office brought three issues before the Board. First, the scope of the work to be done in the 25% design plan. Second, whether to appoint an advisory committee. Third, whether to do an RFP or award the 25% design plan directly to GPI.

Looking back at Article 32 at 2014 Town Meeting, it reads:

To see if the Town will vote to appropriate an amount not to exceed \$150,000 in Community Preservation Act Funds from FY15 Revenue, as recommended by the Community Preservation Committee, for the purpose of preparing the 25% design plan for the full 4.4 mile Bruce Freeman Rail Trail in Sudbury to MA DOT standards, and to redirect remaining funds in the amount of \$27,684.56 from Article 24 of the 2007 Annual Town Meeting (BFRT Base Map) and \$25,000 from Article 27 of the 2009 Annual Town Meeting (BFRT Concept Plan) to be used for this purpose, or to act on anything relative thereto. All appropriations will be allocated to the Recreation Category and funded from FY15 Revenue or unrestricted reserves.

The vote at Town Meeting in support of this article was overwhelming.

A cursory reading of this article also shows the Bruce Freeman Rail Trail has received financial support and has been viewed favorably by Town Meeting for seven years, since 2007.

SCOPE OF WORK

By expanding the scope of the normal 25% design plan, as stated by Ms. Kablack and Mr. Kupfer, to include items other than the standard items required by MA DOT in the 25% design plan, the Planning and Community Development Office has gone beyond the permissible use of funds and scope of work voted in Article 32. This expansion of scope of work has two consequences. First, funds were not allocated at Town Meeting for anything beyond the 25% design study requirements. Second, the expanded scope of work will exceed the plain clear language and intent of Article 32, which was to do only the 25% design plan. An expansion of scope of work will require additional time and will further delay the BFRT project, neither of which was anticipated in Article 32.

In addition, by expanding the scope of the engineering work beyond the 25% design plan, which normally takes 24 months, the town will fall further behind in obtaining construction funding because such funding is contingent upon completion of the 25% design plan.

At least equally important, MA DOT has a protocol for its rail trail design studies, and Sudbury should follow those protocols, even if the town thinks it should do things in a different order, or that by doing so it may save time later. In other words, we do not have the option of doing various parts of the design studies in any order we wish, or combining parts of one design plan with another, without prior approval. To do so could place the project in jeopardy.

The town, acting through its staff and the various boards and committees, and particularly the Board of Selectmen because it was the Board that requested funding from the Community Preservation Committee and it was the Board that presented Article 32 at Town Meeting, is obliged to implement the clear language and intent of Article 32 as the will of the town.

Conservation Commission issues that may come up after the 25% design study is complete will be addressed in the order anticipated by MA DOT protocol, that is, after the 25% design plan is complete.

ADVISORY COMMITTEE

Regarding an advisory committee, the Planning and Development Department made clear in its July 17 memo, it does not feel an advisory committee is necessary at this point. “Due to the additional time demands of upholding the public meeting law, it is our strong recommendation that the Selectmen oversee and advise on this project directly.”

By now, 3 months after approval of Article 32, the Planning and Community Development office should have the Bruce Freeman Rail Trail project moving forward through its own efforts. As discussed at the Board meeting last night, an advisory committee is a topic that can be revisited down the road if it becomes necessary.

RFP VS RFQ WITH GPI

The Planning and Community Development office correctly pointed out the 25% design plan for the BFRT does NOT need to go through the RFP process, as this is an exempt activity to be performed by professional engineers.

Mr. Kupfer reported his office had done its due diligence and GPI received “glowing recommendations” from Acton and Concord about GPI’s work. In addition, the July 17 memo noted, “GPI is a known entity to MA DOT and is familiar with the state and federal funding of this project.” At our April 2014 meeting with MA DOT in Worcester, their officials spoke highly of the work done by GPI on the BFRT in Acton and Concord, the two towns to our north that are soon to begin construction. There was also discussion about delays and waste of resources if the engineering work is not done correctly and has to be re-done. The July 17 memo from Ms. Kablack noted there could be a delay of “at least three months” if an RFP were done.

With all of these facts known to Planning and Community Development, it is obvious that GPI is, by far, the best choice to do the 25% design plan. This is particularly relevant if Sudbury is to have the northernmost half-mile connect with Concord in two years, as MA DOT said could be done at our April meeting, if Sudbury approved funding for the 25% design plan at our May 2014 Town Meeting.

For these reasons, Planning and Community Development has the authority to award the 25% design plan contract to GPI, and it should do so without further delay.

CONCLUSIONS

The Planning and Community Development office and the Town Manager have an obligation to carry out the votes of Town Meeting in a prompt and reasonably efficient manner. The present course is not consistent with those obligations.

Keeping the Selectmen informed of progress on the BFRT should be done through a liaison from the Board and/or periodic reports. If the Board of Selectmen is needed to make specific decisions along the way, it can do so.

For these reasons, I believe the correct and preferred approach is to engage GPI immediately, work with GPI to develop the scope of work, and have GPI begin work on the 25% design plan.

The Planning and Community Development Director can update the BOS as warranted and the BOS consider an advisory committee in the future, if the need arises.

From: Leonard Simon [mailto:lensimon@comcast.net]
Sent: Tuesday, August 19, 2014 10:54 AM
To: Brown, Pat
Cc: Woodard, Chuck; Selectmen
Subject: Re: Bistro 20/Conrad's

Hi everyone,

This is the first complaint I have received from the public regarding a restaurant that wants to move into town.

I think we need to be careful not to alienate or prejudge an individual who wants to make a go of restaurant here in town, especially before it opens its doors.

I understand the restaurant business is particularly fickle. If this proprietor has been successful in other communities, and he has two other similar restaurants, Norwood and Walpole, I think we should be try to be a good host, and wish him well.

Len

From: "Brown, Pat" <patbrownian@me.com>
To: "Woodard, Chuck" <woodardcc@gmail.com>
Cc: selectmen@sudbury.ma.us
Sent: Tuesday, August 19, 2014 10:11:56 AM
Subject: Re: Bistro 20/Conrad's

Hi, Chuck, everyone.

We do get a reasonable number of letters from residents like this one.

How are they handled? Are they recorded anywhere? Is there an official response? I'd assume we'd be CC'ed on anything official.

Whatever the process is on this, please let me know.

Thanks.

Pat

(Note that I'm not sure what power the BOS has in this particular instance; I'm just trying to figure out how we handle requests/complaints/communications from the public.)

On Aug 19, 2014, at 7:47 AM, Ben Grimmatt <Ben.Grimmett@brcap.com> wrote:

I read an article how something called Conrad's will be taking the place of Bistro 20. Does Sudbury really need another generic family restaurant? There's a very distinct reason why the Local in Wayland is taking all the business from Sudbury – it's good.

Sudbury needs more gastropubs and real bistros. Not generic and likely terrible places like Conrad's. There's demand for it in town. I'm a 33 year old father and all my friends in town and I lament on the lack of good restaurants. It's gotten better of late with No 29 Sudbury, but it's a terrible mistake to give this license to another vanilla restaurant that will close in 2 years.

All the other towns around us are drawing good options. Why can't we do the same?

Regards,

Benjamin Grimmett, CFA
Bracebridge Capital
500 Boylston Street
Suite 1700
Boston, MA 02116

Fellow selectmen and Maureen,
FYI, attached is my assessment of the rail trial issue. I will bring hard copies and referenced attachments for you this evening.
Len Simon