

## **Sutton School Building Committee**

Public Forum, Wednesday, 9/25/13, 7:00 PM

Cafeteria of New Sutton Middle School/High School

**Present:** W. Mead, M. Hopkins, R. Raymond, J. Smith, T. Friend, D. Davis, M. Bailey,  
P. Brennan, R. Weaver

**Absent:** M. Jerz, G. Coulter, K. Stuart, T. Harrison

**Guests:** J. Winikur (SBS), T. Alix (SBS), P. Palumbo (SBS)  
V. Dubé (Flansburgh Assoc.), D. McClelland (Flansburgh Assoc.)

The purpose of this public forum was to provide an opportunity for Sutton residents to view the current status of the facility, to receive the most current and accurate information available, to ask questions and to offer comments.

The designated Middle School portion of the facility, the kitchen and cafeteria area became functional on Monday, September 23. The Middle School portion is presently being used for High School classes and functions in an attempt to minimize disruptions during the academic year.

Prior to the start of the meeting, residents had opportunity to walk throughout the accessible portions of the facility. The Auditorium portion is closed off as construction remains to be completed in that area.

Wendy Mead opened the forum at 7:00 PM with a welcome to all. In addition to those listed above, about fifty residents and others were present. The meeting was videotaped for transmission on the cable station.

After stating the purpose of the forum, Wendy asked each member of the committee present and SBS and Flansburgh personnel to introduce themselves. She then asked Jon Winikur to proceed with the power point presentation.

The power point presentation prepared by SBS staff, and presented by Jon, reviewed the history of the pre-construction conditions, the design process and the process of selecting the contractors. It also reviewed most of the identifiable causes of delays (e.g., bid challenge, unknown asbestos under concrete flooring in the demolished structures, utility strike, and extensive soil conditions) and the process of modifying the completion date of the current phase of the project. Jon enumerated the string of missed due dates and deadlines and described the sequence of punitive actions taken to prod TLT. These included withholding \$2500/late day liquidated damages, followed by stopping all payments to TLT when it failed to provide documents to confirm payments to sub-contractors, followed further by the decision of the Board of Selectmen to notify the bonding company and, ultimately, the decision of the BOS to call the bond held by Western Surety.

The reasons for the BOS decision were outlined. The alternatives for the bonding company were described as continuing with TLT as the GC, or replacing the GC or a negotiated settlement with the town and releasing the project to the town to seek a new GC. The implications of each were outlined.

Jon noted that the Western Surety has arranged for an engineering company to do an independent evaluation of the current status of the project. Comments on the current status or, more correctly, the uncertainty of the current status were offered by Jon, Wendy and Jim Smith. Martin Hopkins also commented on his experience with other projects and that the bonding companies generally seek the method that provides completion at earliest possible date.

Wendy then opened for comments and questions from the attendees. Several ensued among which were:

- A request for better communication. In addition of broadcasting of the public meetings of the SSBC and BOS and posting of meeting minutes, Jim offered to seek additional means including postings on the town and school department websites, a blog, etc.
- A question on % completed vis-à-vis % paid. Although specific percentages could not be cited, Jim and Jon both commented that the overall project remains within budget and that the combination of payments to date, retainage, liquidated damages and withheld payments are sufficient to meet all work done to date. That is, there are sufficient funds to complete this phase and the remaining phases. Jon also commented that town counsel prefers that Western Surety assume responsibility for overseeing payments.
- Frustration with the GC was expressed by several. Retaining TLT for the remainder of the project was questioned. Referencing the previous BOS meeting, Jim commented that the same question was raised and the selectmen discussed firing of TLT. After input from town counsel and others and further discussion, the BOS decision was direct involvement of the bonding company was in the best interests of the town at this time.

Wendy added that the bonding company and MSBA would have to agree to fire TLT, even though TLT has been de-certified by DCAM to bid on any future municipal or state projects in Massachusetts.

- A question on the possibility of MSBA withholding funds. Jon commented that MSBA has been very supportive. Although the town is under the same or similar schedule requirements in its agreement with the state, he did not see this to be a major problem. However, more and clearer information on the next steps are needed before a definitive answer can be given.
- Questions about the next steps were presented. Jim commented that the BOS plans to meet in executive session with the bonding company next Tuesday. Regarding completion of the current phase and start of the next, no information could be provided until that meeting is held and a plan devised.

The public forum was closed at 8:09 PM.

Ross Weaver, Recording Secretary