

Newburyport Redevelopment Authority
City Council Chambers
February 14, 2018
Minutes

1. Call to Order

Chair Bob Uhlig called a meeting of the Newburyport Redevelopment Authority to order at 7:06 p.m.

2. Roll Call

In attendance were members Leslie Eckholdt, Bob Uhlig, Marian Levy and David St. Cyr. Andy Sidford was absent. Also in attendance were Attorney Carol Powers, Waterfront Trust members Wilbur Shenk, Dan Mello, Matt Pieniazek and Steve Hines and Attorney Grace Connolly.

3. General Business

A. Approval of Minutes

Marian Levy moved to approve the minutes of the December 13, 2017, meeting as submitted. David St. Cyr seconded the motion. The motion was unanimously approved.

B. West Lot Soils Analysis

Bob Uhlig said the NRA is being proactive about removing the soil in a portion of the west lot where arsenic was found. Bill Chapman of ESS will contact the DPS about assisting with the excavation within the next two weeks. He will also assist the NRA with the removal of an AUL that was improperly placed on Waterfront Trust property after he receives additional deed information.

C. Property Survey

As requested by the NRA, Everett Chandler submitted a proposal for items relating to the completion of the property survey. The cost to update the existing conditions plan would be \$7,500. To prepare an Approval Not Required (ANR) plan would cost \$3,500 and a package for the land court would be \$2,000. Representatives from the Waterfront Trust, the City and the Custom House Maritime Museum should be included in a meeting with Mr. Chandler to review the items that would be included on the documents.

D. Dumpster Modifications

David St. Cyr said he has learned that positioning the entrance of the dumpster closer to the paved road would not be an option due to the turning radius of the truck. Instead the entrance would be oriented to face the Liberty Tax Service office. The enclosure would be 20 feet wide to accommodate two dumpsters and would be 16 feet deep. His next steps will be to meet on site with the company that will install the cement pad and entryway to determine their exact locations. He will also meet with Atlantic Fencing about the design, materials and color of the enclosure. The work should be completed in April or May.

E. Ferry Wharf Way

A discussion took place on the need to rectify the changes the DPS made to Ferry Wharf Way adjacent to Water Street in October 2017. The DPS has admitted it should not have undertaken the work without permission and has agreed to reconstruct the way, but a plan is not yet in place. The issue is a complex one, in part because the drainage system in the area is old and complicated. The retailers located on the way are concerned about construction being disruptive to their businesses and would want the work performed after next December if it is not to be done immediately. The NRA is not in a position to make a unilateral decision about changing the way. It would not be possible to develop a plan before the constraints of the site are fully understood. Bob Uhlig will attend a meeting Jared Eigerman has scheduled on site with abutters and the DPS during the week of February 26.

F. Proposed Land Conveyances from NRA to Waterfront Trust and Custom House Maritime Museum

Bob Uhlig distributed a simplified land disposition plan. In question is parcel D1. Ken Jackman said the Custom House Maritime Museum wishes to be given this parcel its full length to the water. He said the museum recently invested \$21,000 in the land behind the Custom House by installing sod, tent cleats, an irrigation system and bricks along the Rail Trail. The Maritime Museum could envision installing permeable pavers over clean fill on the D2 parcel, providing an alternative use area that would save wear and tear on the D1 parcel lawn. Larger tents could be installed, increasing the crowd size from 125 to 300 people. A temporary ice skating rink could be installed between December and February, helping to bring commerce to the waterfront in the winter months. The paving and skating rink would be an investment of \$150,000 to \$200,000 and the ownership of the property would be necessary to successfully raise these funds. The Custom House would agree to keep the land open and accessible in perpetuity and would not take any steps to improve it before the park design has been completed. The museum has no interest in managing land closer to the water than the road. The land between the road and the water would be leased to the Waterfront Trust. An easement agreement would convey to the Trust the full control of the boardwalk and bulkhead and the obligations to maintain them.

Members of the NRA and Waterfront Trust, along with their counsel, expressed their opinions on the disposition of parcel D1. Lisa Mead, representing the Custom House Maritime Museum, said the urban renewal plan would be maintained and the land court plan kept intact for a historic connection to the waterfront if parcel D1 were not divided. Carol Powers said the urban renewal plan specifically requires museum use for the land. Transferring this registered land without dividing the parcel could be done quickly because the land court would not be involved. Marian Levy said she strongly believes the land should be conveyed to the Maritime Museum because it has the long-term public interest at heart. David St. Cyr said he approves of the proposed use of the land and would support it being managed by the Maritime Museum. Leslie Eckholdt said by conveying the land to the Trust it would be held for the benefit of the public, while the Custom House has a different mission. Steve Hines said he believes strongly the Waterfront Trust should be in control of bulkhead and boardwalk. Wilbur Shenk said it

is unlikely the Trust would be agree to be responsible for the cost to maintain the boardwalk and bulkhead if it does not own them. Bob Uhlig said he would like all NRA members to be present before vote is taken on the issue and the item was tabled.

G. Endowment

Leslie Eckholdt and David St. Cyr have met with a representative from Merrill Lynch about establishing a fund to assist in the long-term maintenance of the expanded park but are not yet prepared to discuss any details.

H. Leases and Agreements

Leslie Eckholdt and Carol Powers met with Richard Jones about the parking agreement, which has been rolling over since 2011. One area of concern is the permitted spaces, which allows free access to the property for a large number of cars. When the number of spaces has been reduced the pressure for parking will increase. A discussion on the number of permitted spaces will need to take place. The parking advisory committee will discuss extending paid parking to 8:00 p.m. in summer at its next meeting.

I. Proposal for Winter Activity on the Waterfront

Ken Jackman described a plan to activate the waterfront during winter months. The Maritime Museum is proposing to erect a tent behind the Custom House and invite 22 downtown restaurants to participate at no cost. The event would be modeled on the “After Hours” dinners the Buttermilk Baking Company has hosted for \$5 per plate. The event would provide the Maritime Museum the opportunity to present to the public its plans for the land behind the Custom House. Mr. Jackman asked the NRA to share in the cost of the event, which would not be greater \$6,000. Marian Levy moved to participate in the event and share in the expense in an amount not to exceed \$3,000. David St. Cyr seconded the motion. The motion was approved with Leslie Eckholdt voting against it.

J. Council’s Invoice

Carol Powers did not submit an invoice for review and approval.

4. Combined Waterfront Trust and Newburyport Redevelopment Authority

Business

Update on MOU

Grace Connolly and Carol Powers have been working together to prepare the MOU. While progress has been made, some issues remain to be resolved. The NRA provided written comments on the draft principles for discussion the Trust had previously prepared, and the Trust responded in turn. An agreement on these fundamental principles should be reached before work on the MOU proceeds. One of the items remaining to be resolved is the transfer of the land, specifically parcels D1 and D2. The Trust would like to own the portion of these parcels that extends from the road to the water. Grace Connolly said a single contiguous ownership along the waterfront would be desirable from a park development and management perspective. She said this would make the most sense for the long-term viability of the management of the land.

Attorney Connolly also spoke about the need for the Trust to be an innocent party in the transfer of the land and qualified for exemption under CERCLA and MGL Chapter 21E. In order to accomplish this, a Phase 1 assessment must be completed within 180 days of the proposed transfer of the property. She has learned from Christine Lombard at the EPA that funding is available for Phase 1 and Phase 2 assessments. The Trust would partner with the City to apply to obtain the services at no cost of a licensed site professional under contract with the EPA.

The AUL that is in place on a portion of the property restricts it from being used for recreational purposes. Bob Uhlig said the plan has been to develop the park above the existing conditions. In situations such as these it is not considered feasible for the soil to be removed. Instead, the procedure commonly followed is that the site is made safe by the addition of two feet of clean fill, as was done at Perkins Playground. He asked if the Trust is in agreement with the expectation that this is the procedure that would be followed. He added it is expected that below-grade contaminants exist in an urban waterfront and more testing is likely to result in the need for more clean up. The NRA would be reluctant to allow Trust access to its property to conduct further excavation, which could potentially make the NRA liable for additional clean up.

Wilbur Shenk asked if it would be possible to bypass the Phase 1 and 2 assessments by hiring a LSP to review the studies and work done to date and obtain approval to cap the site in order to avoid further digging. Grace Connolly reiterated the only way for the Trust to obtain protected land status would be for a Phase 1 assessment to be completed and this would be the prudent way to proceed. Depending on the outcome and goals, the Phase 2 assessment may or may not be necessary. The park might be designed in such a way that parking is planned for any contaminated areas. An access agreement would be necessary for the Phase 1 assessment. Bob Uhlig said the NRA would provide all of the documents pertaining to the work that has been done to date, but would not allow physical digging on its property. Steve Hines will consult with the City and inform the NRA about the direction in which the Trust decides to proceed.

Update on Trust Amendment

None

Public Update for Mayor and City Council

Mayor Holaday has scheduled an open meeting for Wednesday, March 14.

5. Reports

A. Clerk's Report

None

B. Treasurer's Report

On January 31 the balance in the checking account was \$2,413.64 and the balance in the money market account was \$380,912.12. Marian Levy moved to approve a payment of \$6,500 for half of the cost of the survey, \$2,810 for officers and directors liability insurance, \$1,941 for property liability insurance, to Gretchen Joy for minute taking for the February 14 meeting, to the Waterfront Trust for two months of park maintenance in

Newburyport Redevelopment Authority
February 14, 2018

the amount of \$2,011.15 and to ESS in the amounts of \$11,368.68 and \$4,466.03. David St. Cyr seconded the motion. The motion was unanimously approved.

C. Counsel's Report

None

6. Public Comment

Deb Green of Greetings by Design said any additional work on Ferry Wharf Way should be performed either before April or after December to minimize the impact on businesses during their busy season.

Rob Germinara, 2 Ashland Street, requested that Lower Custom House Way be included in the survey work Everett Chandler is being asked to perform.

Jim McCauley, 27 Storeybrook Drive, said a remediation plan is not on file with the EPA. He said more focus should be placed on the issue and the EPA should be engaged.

Elizabeth Harris, 56 Lime Street, said thorough environmental testing should be done on parcel D2 before any land is transferred. The NRA would be in a better position to clean up any contamination than either the Custom House or the Waterfront Trust.

Sandy Small, 25 Oak Street, said she believes the Maritime Museum should lease the land behind the Custom House from the Waterfront Trust and said ownership by the non-profit would be an encroachment on land to be held for the public.

Bill Harris, 56 Lime Street, said the Maritime Museum might be better off not owning the land because of the likely presence of arsenic and heavy metals associated with a coal pocket in the area and the possibility of subsidence.

7. Adjournment

Leslie Eckholdt moved to adjourn the meeting at 9:21 p.m. David St. Cyr seconded the motion. The motion was unanimously approved.