

Newburyport Redevelopment Authority Meeting
City Hall Auditorium
March 14, 2018
Minutes

1. Call to Order

The meeting was called to order at 7:00 p.m. In attendance were NRA members Leslie Eckholdt, Bob Uhlig, Marian Levy, David St. Cyr and Andy Sidford. Also in attendance were Waterfront Trust members Wilbur Shenk, Dan Mello, Matt Pieniazek and Steve Hines; Attorneys Carol Powers and Grace Connolly; Mayor Donna Holaday and Planning Director Andy Port.

2. Update Central Waterfront Progress with Newburyport Redevelopment Authority, Waterfront Trust, City of Newburyport and Custom House Maritime Museum

Mayor Holaday began the meeting with an informal discussion to update the public on the status of the progress of the plans for the central waterfront. Steve Hines said the Waterfront Trust and NRA are working to develop a MOU for the transfer of the land and are in agreement on most issues. One area of disagreement involves the ownership of parcel D2. The Custom House Maritime Museum wishes to expand its programming into this area, while the Trust wants to obtain the ownership of all of the NRA property, including the boardwalk, bulkhead and submerged tidelands.

An area of concern to the Trust is the possible presence of contaminated soils on NRA property. Bill Chapman of ESS described the required mediation that is to be undertaken in the west lot, where arsenic was found. It might be necessary for an AUL, such as exists for the east lot, to be placed on the west lot. The east lot AUL currently does not allow the land to be used as a park. The AUL would be amended after contamination hot spots have been removed and clean fill has been added. Mr. Chapman recommended the site be viewed as a whole, with a single AUL being applied to the entire property. He said given the urban waterfront setting, it should be expected the contaminants that have been found intermittently would occur across site. The use of the space should govern the design of the park rather than the design being based on the avoidance of contaminants.

Steve Hines said a phase 1 environmental site assessment must be completed no more than 180 days before the transfer of the property in order for the Trust to receive a protected status. The City will work with the Trust to obtain federal funding for the work. Bob Uhlig commented the NRA would be reluctant to allow physical testing of the soil on its property because this might result in the need for further remediation.

Steve Hines reviewed the draft principles for the MOU, which include, but are not limited to the following items: 1) the acceptance of the land would be contingent upon the satisfactory completion of phase 1 environmental site assessment; 2) a recordable survey plan shall be completed; 3) the final programming and design of the expanded park shall be determined by the Trust; 4) the design of the park shall include the concept of a bell-shaped alignment and the Fives Ways to the Water; 5) the amount of parking shall be reduced to 125-150 spaces; 6) the Trust and City shall commit to designing and building the park within a reasonable period of time; 6) the Trust and City shall seek

capital funding for the design and construction of the park; 7) the Trust shall retain revenue from parking, park usage, dockage and dumpster fees; 8) the City and the Trust shall enter into a revenue sharing agreement with the goal of maximizing the Trust's income; 9) the maintenance of the boardwalk and bulkhead shall be the responsibility of the City; 10) the Trust shall enter into a revenue-sharing agreement with the Harbor Commission relating to dockage fees; 11) the City shall provide financial support to the Trust on an annual basis; 11) the Trust would not assume any liabilities or responsibilities of the NRA and 12) the City would indemnify the Trust against any liabilities incurred as a result of environmental issues.

The NRA has not met since the latest version of draft MOU was received and the members have not had the opportunity to respond to it. Bob Uhlig said there has been a general consensus on the framework plan. He said the NRA expects to a part of the approval process for the revisions to the Trust document. He asked that the Trust and City prepare a more specific schedule for the funding, design and implementation of the expanded park. The NRA requested to receive more information on the financial relationship between the City and the Trust and the revenue-sharing agreement for the land and submerged tidelands. The NRA also requested the Trust establish an endowment for the maintenance of the park. The NRA has engaged Everett Chandler to prepare a survey. He summarized the three components of the work: 1) an updated plan of the existing conditions on the entire property, 2) the creation of plan for dividing parcels in the land court and 3) the development of an Approval Not Required (ANR) plan. The land court process is a complex one that could take between four to six months.

The meeting was opened to comments from the public. Rob Germinara, 2 Ashland Street, requested that Lower Custom House Way be included in the survey work Everett Chandler is to perform. Jeannette Isabella, 1 Lime, asked Mayor Holaday if buildings are to be constructed on the waterfront. Mayor Holaday said while there is a need for year-round restroom on the site of the existing structure, she would never construct a building to house the Chamber of Commerce and has no intention of adding a visitor center on waterfront property. Lon Hachmeister, High Road, Newbury, asked for clarification on the concept of an AUL being placed on the entire property. Jim McCauley, 27 Storeybrooke Drive, said it is necessary for a plan of record to be in place before any hot spots are remediated.

2. NRA Business

A. Approval of Minutes

Marian Levy moved to approve the minutes of the February 14, 2018, meeting as submitted. David St. Cyr seconded the motion. The motion was unanimously approved.

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

A discussion took place on the draft disposition plan the NRA issued in January, beginning with parcel D1. This registered land currently is one contiguous parcel that extends from the Custom House to the water. The Waterfront Trust has expressed an interest in owning the portion of this parcel between the road and the river. Carol Powers recommended the parcel be conveyed in its entirety, as has been historically shown on

the land court deed, to the Custom House Maritime Museum with the stipulation the CHMM would immediately grant an easement to the Waterfront Trust for the waterside portion of the parcel. While the CHMM would own the fee, a significant property interest would be conveyed to Trust, which would allow it to control and maintain the boardwalk and bulkhead. She made this recommendation based on the land being considered one parcel in the urban renewal plan. By keeping it as such, the conveyance would be made as secure as possible and less vulnerable to a lawsuit. While not all elements of the urban renewal plan remain in effect, the requirements for conveyancing are still in place. The urban renewal plan did not contemplate the separation of the parcel.

Leslie Eckholdt reviewed the history of the parcel with regards to eminent domain. She questioned the need to maintain the connection of the Custom House to the water when this relationship has not physically existed since 1872. Grace Connolly said the Trust might not agree to accept an easement. The Trust would be reluctant to become responsible for the maintenance of land it does not own. Ken Jackman said the CHMM does not intend to stand in the way of the Trust owning and managing the portion of the parcel between the road and the water. However, donors have made a committed to contribute a significant sum of money to an endowment for the maintenance of the Custom House at the time of the building's 150th anniversary. He is concerned the length of time to separate the registered parcel in land court would jeopardize these efforts. He proposed that as a condition of transferring the parcel in its entirety to the CHMM, the Trust would be offered the opportunity to purchase the waterside portion for \$1. The Trust could execute the buyback any time, but this would preferably be done immediately after the closing. The buyback would protect the interest of the CHMM while the process of subdividing the parcel in the land court takes place. Carol Powers said transferring the parcel to the CHMM would satisfy the obligations of the NRA and would alleviate her concerns. She has worked with the CHMM attorney Lisa Mead to craft an agreement. Grace Connolly commented that the Waterfront Trust was not included in a discussion of a buyback. She said a cleaner and easier process would be to subdivide the parcel before transferring it. She said the CHMM might have to assume the responsibilities of ownership of the entire parcel for a period of time, because the Trust would not execute the buyback until a satisfactory Phase 1 environmental assessment has been completed.

David St. Cry moved to convey parcel D1 to the Custom House Maritime Museum with the stipulation an easement or \$1 buyback option for the portion of the parcel between the road and the water shall be granted to Waterfront Trust. Andy Sidford seconded the motion. The motion was unanimously approved.

Marian Levy said she is in favor of transferring the ownership of parcel D2 to the CHMM because of the programming that has been proposed for the site. Andy Sidford said the objective of the NRA has been to design and implement an expanded park and to ensure its maintenance is properly funded. The CHMM has a vested interest in maintaining and providing programming for the parcel and the transfer would invigorate this portion of the waterfront. Leslie Eckholdt said she is opposed to transferring the parcel to the CHMM because it is too large, the park has not yet been designed and this part of the property could potentially be valuable in producing parking revenue. Bob

Uhlig responded the framework plan does not include parking in this area. He said he supports the collaborate effort to energize this part of the waterfront.

Marian Levy moved to transfer ownership of parcel D2 to the Custom House Maritime Museum with the stipulations that 1) Custom House Way shall remain open and publically accessible in perpetuity and Waterfront Trust approval would be required if the Maritime Museum were to propose to temporarily close the Way for an event, 2) the parcel shall revert to Waterfront Trust ownership if at any time the Custom House Maritime Museum no longer wishes to own it and 3) plans for the parcel shall not proceed until the expanded park has been designed. David St. Cyr seconded the motion. The motion was approved with Leslie Eckholdt voting against it.

David St. Cyr moved to agree in principle to conveying the remainder of the NRA property to the Waterfront Trust. Andy Sidford seconded the motion. The motion was unanimously approved.

C. Dumpster Modifications

David St. Cyr said he had no new information to present. He invited members of the Waterfront Trust to join him when he meets with vendors about the design of the dumpster enclosure.

D. Endowment

No update.

E. Leases and Agreements

Parking Agreement

A parking program report has been issued in which it has been recommended that upon completion of the parking garage, 100 parking spaces would be removed from the waterfront. Bob Uhlig asked the Waterfront Trust to help with the articulation of the timetable for the construction of the park in order that a target date for the removal of an additional 100 spaces might be identified.

F. CHMM Proposal for Winter Activity on the Waterfront

Ken Jackman said 19 restaurants have expressed interest in participating in an event that would showcase the expected use of the D2 parcel. He will now set a date for the event, which he expects to take place in April.

G. Ferry Wharf Way

Bob Uhlig reiterated the request from the businesses along Ferry Wharf Way that no construction take place between April and October. Leslie Eckholdt said the addition of a linear grate could be a simple solution to the drainage problem.

H. Council's Invoice

Leslie Eckholdt moved to approve a payment to Carol Powers for 90 hours of legal services between April 2017 and March 2018 in the amount of \$18,000. David St. Cyr seconded the motion. The motion was unanimously approved.

I. Reports

Treasurer's Report

On February 28 the balance in the checking account was \$5,737 and the balance in the money market account was \$362,699. Andy Sidford moved to approve payments to Gretchen Joy for minute taking for the March 14 meeting and to the Waterfront Trust for regular park maintenance. Marian Levy seconded the motion. The motion was unanimously approved.

Counsel's Report

Carol Powers read her letter of resignation as counsel to the NRA.

4. Combined NRA and Waterfront Trust Business

Update on MOU regarding Central Waterfront Land Disposition

A discussion of the draft MOU was tabled.

5. Public Comment

Jeanette Isabella, 1 Lime Street, asked how the NRA's money would be used. She was told the intent is to place the money in an endowment to be used for the maintenance of the expanded park.

6. Adjournment

Andy Sidford moved to adjourn the meeting at 8:56 p.m. David St. Cyr seconded the motion. The motion was unanimously approved.