

**Newburyport Redevelopment Authority Meeting  
with Newburyport Waterfront Trust and City of Newburyport**

City Hall Auditorium

April 25, 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 and Steve Hines; Attorney Grace Connolly; Mayor Donna Holaday; Planning Director Andy Port and City Councilors Jared Eigerman, Heather Shand, Larry Giunta, Gregory Earls, Afroz Khan and Bruce Vogel.

**2. Land Disposition Plan**

The meeting began with an overview of the process to dispose of the NRA property. In an effort to be responsive to the interests of the City and the public, the NRA developed a framework plan for an expanded park with a sustainable revenue stream. State law requires the City Council and Mayor to approve of a consensus plan before the NRA property is conveyed. The City Council accepted a set of policies and objectives for the central waterfront developed by the Ad Hoc Central Waterfront Committee. Two members each of the NRA and WFT continued the consensus-building process by attending meetings with Mayor Holaday, Andy Port and Bill Harris. The NRA and WFT are working together to draft a memorandum of understanding for the conveyance of the property.

At its March 14 meeting the NRA voted to convey the submerged tidelands and most of its property to the Waterfront Trust. A motion was approved to convey parcel D2 to the Custom House Maritime Museum because of the museum's ability to provide programming that would activate the eastern portion of the central waterfront. The vote was met with opposition from parties that would like the WFT to have contiguous ownership along the waterfront. Marian Levy voted to rescind the vote to convey parcel D2 to the CHMM in order to achieve a consensus. David St. Cyr seconded the motion. The motion was unanimously approved.

The NRA recently issued a document that includes components of its MOU with the WFT and the recommendations of the Ad Hoc Committee. The document outlined the rights and responsibilities the City would accept. These include non-exclusive easements for the Rail Trail, the vehicular way through Riverside Park, utilities, maintenance operations and public safety services, along with the exclusive right to operate public parking services and water dependent uses under a mutually beneficial agreement with the WFT. The City would be responsible for the maintenance, repair and improvement of the boardwalk and bulkhead.

The document also included a condition that certain deadlines be met for the design and construction of the park. Jared Eigerman said this condition would not be conducive to a path towards settlement. The City would not be able to commit to constructing the park by a certain date due to other fiscal responsibilities. Bob Uhlig explained an attempt was made to create incentives, both through funding and

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contingencies, to guarantee the development of an expanded park. The NRA would commit \$75,000 to the design of the park and would contribute to a \$350,000 endowment for its maintenance. He would not want the need for parking to determine the way in which the NRA property would be used. Andy Sidford said the NRA is the steward of the property and has a mandate to design and build a park and fund it in perpetuity. He is looking for an assurance before the property is conveyed that the expanded park would ultimately be constructed and the conceptual plan the NRA has developed would be included. The permit for the parking garage requires that 100 spaces be taken off the waterfront when the structure is completed. Jared Eigerman said the City Council is committed to removing parking from the waterfront. The assurance the NRA is seeking might perhaps take the form of a requirement that an additional number of spaces be removed from the waterfront by a certain deadline. Mayor Holaday said she is opposed to a reversion clause, as her goal is to dissolve the NRA as soon as possible.

The disposition plan was discussed parcel by parcel. Parcels A1 and B1 would be used for an expanded park. Andy Port asked that consideration be given to first transferring the land to the City before it is conveyed to the Trust. He said the City, unlike the WFT or NRA, would be able to leverage certain State funds for the construction of the park. The land would be protected under Article 97. Parcel B1 is the most feasible area for the receipt of a large State grant to build a park. Jared Eigerman said a precedent exists for transferring the land to the City before it is conveyed to the Trust. Steve Hines said the WFT is capable of taking on the responsibilities of an expanded park. The Trust used the Ad Hoc Committee document to develop its principles of agreements. He said the expanded Trust would include two NRA members for the first five year, ensuring the group would have input in the design of the park. Wilbur Shenk said the Trust would be interested in working with the City and the Committee for an Open Waterfront to obtain grants for the construction of the park, but this would be difficult to do before the land has been conveyed to the Trust. Mayor Holaday said the City has a great track record of writing grants and raising funds. The design should be completed for the park as a whole but construction might be done in phases as funding becomes available. Further consideration must be given to the concept of the City taking ownership of the land before it is transferred to the Trust and the discussion was tabled.

Parcels A2 and B2 would be parking areas. Jared Eigerman said the Ad Hoc Committee intended for the City to have exclusive rights to manage the east and west lots. Parking revenue would be shared with the WFT, with the percentage of the revenue to be received by the Trust being determined by the size of the park. Leslie Eckholdt said she concerned about the way in which such an agreement would be defined. She is not in favor of the term easement being used. She pointed out the NRA currently receives, and uses most of, \$165,000 in parking revenue annually, which is more than is provided in the formula. She would like to be certain the Trust has a secure amount of money to manage its property before revenue sharing is discussed. Mayor Holaday said the City has been managing the parking thus far without an easement and it should be possible to continue this arrangement in the future. Jared Eigerman said he would want the Trust to be prohibited from entering into an agreement with parties other than the City. Grace Connolly responded that under Article 97 parking rights could not be granted to another

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party. She added the Trust would need to maintain a relationship with the City because of the indemnity and maintenance agreements. The legal aspects of the agreement must be given further consideration.

It was agreed that parcels B3 and D2 would be conveyed to the WFT without discussion. Parcel A3 will also be transferred to the Trust. The City will construct year-round restrooms on a portion of this parcel in approximately the same location as the existing facility. The WFT is not interested in operating and maintaining the restrooms. It has not yet been decided if the City would own a small portion of the parcel or if it would be given an easement or lease.

The NRA voted at its March 14 meeting to transfer parcel D1 as a whole to the CHMM, with an easement then being given to the WFT for the portion of the parcel between the road and the water. The land is registered and the land court process is a lengthy one. Mayor Holaday said the Maritime Museum should be allowed to continue its use of this lawn, which it does well. It is important in generating revenue and building the museum's financial base. Leslie Eckholdt commented the land was acquired for public purposes and should be transferred to an entity that will allow for its use by the public. The Anti-Aid Amendment, which prohibits public land from being transferred to a non-profit entity over which no control is maintained, must be taken into consideration. Jared Eigerman said the City should own the fee to protect the building. Rather than transferring the property to the CHMM, he would prefer for the City to enter into a long-term lease agreement with the museum, such as has been done at the Firehouse. He is concerned the CHMM might mortgage the building and default on the loan. Doug Muir said a long-term lease would not work for the CHMM. The museum would not be able to raise an endowment to protect a building it does not own. Donors would not be willing to gift the large sums of money needed. He said the CHMM would be amenable to a deed restriction that would require the building to be used as maritime museum. Bill Harris spoke in favor of the ownership being transferred to the CHMM with a deed restriction that would prohibit mortgages. He agrees ownership is necessary for fundraising and the museum must be able to protect its collection. A partnership could be entered into with another museum if the CHMM were to encounter financial difficulties. Mr. Muir went on to say the CHMM has no interest in being a part of the ownership chain for the portion of parcel D1 beyond the lawn. Wilbur Shenk said the Trust wishes to own that portion of the parcel. Mayor Holaday concluded the discussion on parcel D1 by saying the CHMM would continue to have use of the lawn but the mechanism by which this would happen must be given further consideration.

Parcel C1 is the submerged tidelands. Jared Eigerman said the embayment is controlled by the WFT. The City Council envisioned the tidelands upriver of the embayment being conveyed to the Trust, while those downriver would be transferred to the City and controlled by the Harbormaster. Leslie Eckholdt said in her opinion the submerged tidelands should be transferred in their entirety to the WFT because the expanded park will have long-term income needs. Steve Hines said he and Wilbur Shenk, while they are only two members of the Trust, would not be opposed to the ownership being divided between the City and the Trust. Mayor Holaday said she is firm that a former portion the tidelands and the operation of the watershed shall be under the

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control of the City. She said the City is assuming a great deal of liability and providing capital and deserves to receive a portion of the revenue.

In conclusion Mayor Holaday said that while much legal work and subcommittee work remains to be done, it has been agreed that a reversion clause is not desired and the NRA does not need to stay in existence until the park has been constructed. She thanked Marian Levy for her service to the NRA, as she has resigned.

**3. Public Comment**

Bill Harris said the tidelands should be conveyed to the Trust. When self-driving cars become prevalent, the Trust would not be able to depend on revenue from parking. He pointed out there are six Ways to the Water, not five, as has been referenced in some documents. He also spoke of the need for environmental remediation and an EPA certification. He said the NRA should be dissolved after the environmental assessment has been completed. Rob Germinara said Lower Custom House Way should be included in the survey and all discussions about parcels D1 and D2. Lon Hachmeister said the waterfront property should be transferred to one party, the WFT, and not divided between two owners.

**4. Adjournment**

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