

Newburyport Redevelopment Authority Meeting
City Hall Auditorium
May 23, 2018
Minutes

1. Call to Order

Chair Bob Uhlig called a meeting of the Newburyport Redevelopment Authority to order at 7:02 p.m.

2. Roll Call

In attendance were NRA members Bob Uhlig, Leslie Eckholdt, Andy Sidford and David St. Cyr and NRA Attorneys Kathleen O'Donnell and Peter Durning. Also present were Trustees Wilbur Shenk, Dan Mello, Sean Bradley, Matt Pieniazek and Steve Hines, Attorney Grace Connolly, Mayor Donna Holaday and City Councilors Jared Eigerman, Heather Shand, Larry Giunta and Sharif Zeid.

3. Soils Update

Bill Chapman of ESS provided an overview of the remediation undertaken in the west lot. No contaminants were found in the ground water that exceeded acceptable levels. An assessment of the soil revealed a low level of petroleum in a defined area and intermittent areas of arsenic. The arsenic was removed from one area of high concentration and clean fill was added. A risk characterization of the remaining contaminants is now being done. This assessment will be used to determine which activities would be prohibited on the site and an AUL will be placed on the deed. Peter Durning will advise the NRA on the information received from ESS and review the AUL for the west lot before it is recorded.

Mr. Chapman went on to explain that hot spots with varying levels of lead have been found throughout the east lot. It might be necessary for the lead to be removed in order for the land to be used as a park. A risk characterization would be done to determine how much lead, if any, would need to be removed in conjunction with the placement of clean fill.

The Waterfront Trust is concerned about accepting ownership of land that cannot be used as a park. The Trustees are prepared to engage TRC to conduct a Phase 1 Environmental Assessment, which is necessary to protect the Trust from liability when it accepts the NRA property. The Trust requested the recording of the AUL on the west lot be put on hold while the Phase 1 Assessment is being conducted, which is acceptable to the NRA. The next regulatory deadline it must meet is in November. It is possible that additional contaminants would be found during the assessment. It would be necessary for the Trust to partner with the City to complete a Phase 2 Assessment. Both parties are concerned about assuming responsibility for remediation when the cost is an unknown.

Kathleen O'Donnell said because the urban renewal plan has expired, a certain process must be followed. A request for proposals must be advertised in the Central Register before the land could be transferred to any party. The soil remediation could be a part of the disposition process.

4. Parcel Disposition Plan

Bob Uhlig said the NRA takes its roll as the steward of the land seriously. Its goal is a reduction in the amount of parking on the waterfront and an expansion of the park without the capital of private development. The group has been moving forward expeditiously to transfer its property and wants a commitment from the City or the Waterfront Trust about the intention to construct, and ability to maintain, an expanded park. He reviewed the parcel disposition plan, with which the Waterfront Trust is in concurrence.

Sharif Zeid said the proposed disposition plan is in keeping with position of the Ad Hoc Central Waterfront Committee. He said has a concern about the transfer of parcel D1A to the Custom House Maritime Museum. He thinks the current lease arrangement has been successful and a 99-year lease to the Custom House would be fair and reasonable. He does not agree with the land being transferred to a private entity. Andy Sidford pointed out the lease is not beneficial to the Custom House in the way it once was. The position of the City has been that the parcel should be conveyed to the Custom House. Jared Eigerman said he personally would not be opposed to the transfer provided the Custom House would be prohibited from mortgaging the land. Kathleen O'Donnell said the NRA could apply to deregister the parcel. The lawn could then be separated and transferred to the Custom House with the restriction that it shall be for museum use only.

A discussion took place on the ownership of the submerged tidelands. Mayor Holaday said the current system has been successful. Bill Harris said the Settlers would prefer the Trust own all of the tidelands and lease a portion to the City. The City would receive a substantial part, but not all, of the downstream income. He said the Trust is entitled to receive all on the revenue generated on the central waterfront and has been receiving only a portion of it. The Trust will need a diversity of income to maintain the park as parking revenues decrease.

Andrew Casson, chair of the Harbor Commission, said the Harbormaster's Department has 55 employees. The figure being discussed with regards to revenue sharing is gross revenue, but it is the net revenue that must be considered. The management of the waterfront is the Harbor Commission's purview. It is not only responsible for the bond payments for the Harbormaster's Facility, but the work at the fish pier must be completed and the docks will need replacement within the next five years. Leslie Eckholdt said she would like the tidelands to be owned by an entity that serves the wider public, not just boaters, who represent a certain economic group.

5. Public Comment

Rob Germinara, 2 Ashland Street, said more work remains to be done, as some land issues have not yet been settled. In his opinion there are six Ways to the Water, not five and the control of the bulkhead by the City would land-lock the Waterfront Trust. He added the issue of the waterside leasing rights could lead to litigation on the part of the Settlers.

Lon Hachmeister, 281 High Road, Newbury, said the AUL analysis should focus on what must be done in order for the land to be useable as a park, rather than on what is prohibited. The removal of hot spots and addition of fill would allow for the use of the

land as a park. Bob Uhlig responded a process is in place and the NRA must be allowed to follow it. At the time the AUL was placed on the east lot, it was being considered as the location of a hotel development.

Elizabeth Heath, 25 Oak Street, asked about the RFP process. Kathleen O'Donnell explained that any party interested in obtaining the NRA parcels could submit a bid. The NRA would be able to impose any conditions it chose. It would not be necessary to make an award to the lowest bidder. The decision would be based on what is best for the city. An exemption from the process would be possible if the land were to be transferred to the City, but not to the Waterfront Trust or the Custom House Maritime Museum. Councilor Eigerman pointed out the home rule petition supersedes any other State law and an order could be written that would allow the land to be conveyed to the Trust without going through the RFP process.

Peter Fitzsimmons, 7 Arlington Street, said the Waterfront Trust was created as an independent body that would manage the park in perpetuity.

Susan Hern, 22 Broad Street, said the work of the NRA is finished and asked what would happen with its funds. Kathleen O'Donnell responded Chapter 121B lists places the money might go. The outright granting of the funds to the Trust would be illegal.

Nick Metcalf, 27 Ferry Road, said his understanding is the court gave the ownership of the tidelands to the Trust. Kathleen O'Donnell said according to the records of the land court, the Trust was given the leasing rights to the bulkhead and embayment but not the ownership. Mr. Metcalf added EPA funding should be sought for the phase 1 and 2 assessments.

Mayor Holaday said the NRA needs a full quorum to be able to complete its work. She will speak with Kathleen O'Donnell about extending the terms of the two members whose appointments are set to expire on June 30. The City Councilors have indicated they do not intend to appoint any members to the NRA. Bob Uhlig was appointed for a one-year term last year, which is not allowed under the statute. According to the statute, a member serves until reappointed.

Sharif Zeid concluded by saying the existing four-acre park is being maintained with an annual budget of \$135,000. The income needed for the maintenance of a six-acre park is now estimated at \$292,000. He said the actual amount needed should be determined before the diversity of income is discussed. Bob Uhlig encouraged the City and Trust to have this conversation.

6. Review of Expenses

Leslie Eckholdt moved to approve a payment to Gretchen Joy in the amount of \$150 for minute taking for the May 23 meeting and to Tom and Gretchen Joy in the amount of \$334.10 for labor and materials for the maintenance of the Pop Up Park. Andy Sidford seconded the motion. The motion was unanimously approved.

7. Adjournment

The meeting was adjourned at 8:55 p.m. The next meeting of the NRA is scheduled for Wednesday, June 20, 2018.