

Newburyport Redevelopment Authority
City Council Chambers
September 13, 2017
Minutes

1. Call to Order

Chair Bob Uhlig called a joint meeting of the Newburyport Redevelopment Authority and the Waterfront Trust to order at 7:00 p.m.

2. Roll Call

In attendance were NRA members Leslie Eckholdt, Bob Uhlig, Andy Sidford and David St. Cyr and Wilbur Shenk and Steve Hines of the Waterfront Trust. Carol Powers was also in attendance.

3. Combined NRA and Waterfront Trust Business

A. Submerged Tidelands

Jamy Madeja summarized a memo she sent to the NRA members on the rights and responsibilities of the Authority with respect to the submerged tidelands, the constraints on the conveyance of the submerged tidelands and the potential sources of revenue from the submerged tidelands. She advised the NRA to obtain the perspectives of the Massachusetts EPA, CZM, the Army Corp. and the Newburyport Harbormaster before proceeding further with their plans.

She said the NRA owns the submerged tidelands and should abide by the public purposes put forth in the urban renewal plan. According to this plan, both the submerged and filled tidelands were to provide an economic benefit. The submerged tidelands could be sold or leased; they should not be given away. The Commonwealth granted the ownership of the submerged tidelands to the NRA and could chose to take the property back if the urban renewal plan were not being honored.

The NRA has an obligation to not impair the reserved public rights of fishing, fowling and navigating in the tidelands. The public does not have the right to use the tidelands for free. As the urban renewal plan included a marina, this would be considered a proper public purpose.

The proper public purpose should be carried into the transfer of ownership. The transfer should include a provision for the long-term maintenance of the submerged tidelands, including the repair of the bulkhead and boardwalk and dredging if navigation were to become impaired. To transfer the property to an entity that does not have the means to maintain it could jeopardize the ownership of the tidelands.

Attorney Madeja said to give the submerged tidelands away would put them at risk of being reclaimed by the Commonwealth because the urban renewal plan intended economic benefit that has not yet been met. It would not be necessary to obtain full market value for the submerged tidelands provided they were to be used for the benefit of the public, but the fair value of the property, as approved by HUD, must be obtained. This could be accomplished through the bidding process. The NRA may convey the property to a public, private non-profit or public non-profit entity. A transfer of the

submerged tidelands to the Waterfront Trust would not violate Article 97, the anti-aid amendment, but this is only one factor that must be considered.

Attorney Madeja said because the submerged tidelands have value and should not be given away the logical next step would be to determine their value. She counseled the NRA members to seek information from the marketplace to learn what marinas would bid to invest in the area. This would not necessarily require the initiation of the public bidding process but rather requests for proposals could be sought. The proposals should include the value of space and/or funds that would be compensated to the Harbormaster. Attorney Madeja recommended the NRA first contact volunteers that would be willing to contribute their expertise in this area. She offered to donate initial conversations with people she knows who might evaluate the submerged tidelands for the NRA. The NRA members would prefer to begin the investigation in this more informal way.

Steve Hines expressed his concern about the delay this would cause with the transfer of the ownership of the NRA property to the Waterfront Trust. Bob Uhlig responded the NRA is a steward of the land and must not act only in accord with what is expedient but rather with due diligence.

With regards to the filled tidelands, a park was included in the original urban renewal plan and therefore it would not be necessary to determine the fair value of that land.

B. Soils Testing in West Lot

ESS has submitted a proposal for the next steps in the on-going Phase II Comprehensive Response Actions for the West Lot for MassDEP. Leslie Eckholdt moved to approve the proposal from ESS for the next steps of the soil work for the west lot in the amount of \$13,450. Andy Sidford seconded the motion. The motion was unanimously approved.

C. Central Waterfront Review

Bob Uhlig is preparing an RFP for design services for a landscape architect for the expansion of the park.

4. Reports

A. Clerk's Report

None

B. Treasurer's Report

On August 31 the balance in the checking account was \$4,874.24 and the balance in the money market account was \$300,843.81. Leslie Eckholdt moved to approve the payment of invoices from Lady Tracey Ann for watering the pachysandra on July 5 and 11 in the amount of \$800; Gretchen Joy for minute taking for the September 13 meeting; Tom and Gretchen Joy for PUP maintenance and pachysandra watering from August 6 to September 10 in the amount of \$493.34 and ESS for the next steps of the soil work for the west lot in the amount of \$13,450. Andy Sidford seconded the motion. The motion was unanimously approved.

C. Counsel's Report

Carol Powers will work with Grace Connolly, attorney for the Waterfront Trust, on the revisions to the Trust document. She has prepared a draft letter of intent to the Waterfront Trust and Custom House on the intention to transfer the NRA property. She will include a section on due diligence with regards to the submerged tidelands.

5. Minutes

Andy Sidford moved to approve the minutes of the July 12 and August 9 meetings as submitted. Leslie Eckholdt seconded the motion. The motion was unanimously approved.

6. Upcoming Meetings

The next meeting of the NRA is scheduled for Wednesday, October 11.

7. Adjournment

Andy Sidford moved to adjourn the meeting at 8:51 p.m. Leslie Eckholdt seconded the motion. The motion was unanimously approved.