

Newburyport Redevelopment Authority
August 27, 2008

Present: Nat Norton, Rick Taintor, Patty Dorfman, James Shanley, and Tim Brennan

Attorney Carol Powers was also present.

Public Comment:

None

Sign/Façade Applications:

a. Thirsty Whale Window Replacement

The applicant is replacing 12 windows putting in the front of the building. He brought in a sample window for the board to see. The screens are trimmed in white and the window trim will be the same color blue as the rest of the lower part of the building.

Ms. Dorfman made a motion to approve the window replacement and James Shanley seconded the motion. The motion passed unanimously.

b. National Multiple Sclerosis Society requesting to use west lot for annual event

The MS Society makes this request every year. Alcohol will not be served.

Ms. Dorfman made a motion to approve the request. Mr. Shanley seconded the motion. The motion passed unanimously. Diane Eppa will need to enter this into the calendar. Mr. Norton will ask Diane to contact the MS Society to confirm the actual date.

Mayor Moak addresses the NRA members to explain the Debt Exclusion Ballot Question:

Mayor Moak explained that he is trying to reach out to each board, commission, and committee to explain the Debt Exclusion ballot question. The city is asking to move \$900,000 out of the operating budget and into a debt exclusion. A debt exclusion is similar to an override but there are some differences. An override always continues to exist and increases each year. A debt exclusion moves debt and payment of the debt to another account. Each year as the principal decreases, so does the payment. It has a 10 year life. All of the city's debts can be paid off in 10 years. It is one part of a whole financial program that the city is putting together. The Mayor has four goals. 1. To be able to improve city infrastructure without having to always borrow money. 2. Create a plan for replacing city vehicles before there is an emergency need to do so 3. To provide funding for school resources and additional electives that had to be cut. The Mayor also wants to be able to maintain the level of service in education that has been reached this year. 4. To create reserves to assist in the funding of retirement buy backs. The unions negotiated by-backs but there was never any funding for it. People are now retiring and the money has to come out of the operating budget. This money would be used to set aside funds to work on these goals. The city is trying to look at things at a planning stage as opposed to a crisis stage. There is a cost to the taxpayers - \$175/year on a \$500,000 home.

Mr. Norton asked if the state views a debt exclusion differently than proposition two and a half. Mayor Moak said yes and that there are three override options, a debt exclusion, an operation override, and a one-time override. Debt exclusions are usually used to do projects right up front but this plan is a little different.

Approval of Minutes:

Approval of the minutes of the July 23, 2008 meeting was deferred until the next meeting.

August 27th

Discussion and amendment of the minutes.

Ms. Dorfman made a motion to approve the minutes as amended. Rick Taintor seconded the motion. The motion passed unanimously.

Treasurer's Report:

The report is through August 31, 2008.

There were some parking fees collected, a little more interest, and the meeting minutes were paid. The ending balance is \$105,572.00. There is currently a balance in the checking account because the Waterfront Trust has not cashed their check for \$4,000 yet. The new Waterfront Trust payment is \$1998.42 for the time period between 8/22 – 9/21. Mr. Norton gave Mr. Brennan two checks that need to be sent to Standard Parking. The Chamber of Commerce has not yet paid for the reserve parking during the concert that preceded Yankee Homecoming.

Mr. Taintor made a motion to pay \$1998.42 to the Waterfront Trust. Mr. Shanley seconded the motion. The motion passed unanimously.

Maritime Society:

Attorney Carol Powers stated that the NRA holds the land in trust but may not view it with the same rigor that they would their own personal property. She is not all that eager to have the NRA convey any rights to the land and prefers the NRA to be conservative with the land. The Maritime Museum has been leery of use on the back of the property because it is NRA property. If this was in the context of a Waterfront Consortium than a letter of intent has a context that's bigger and makes it a lot easier to say that the NRA will participate because it's part of the whole scheme. Then you make sure that everyone's interests are protected.

Ms. Dorfman asked who would be members of the consortium. Members would include the NRA, the Waterfront Trust, and the City. Mr. Norton stated that the members need to determine if there should be a letter of intent. The Maritime Museum wants to build an addition but do not have rights to the land, the NRA does. The addition would house a café, restrooms and an addition to the museum.

Mr. Brennan thinks the NRA should build the addition and keep control over the whole project. The NRA should work in conjunction with the Maritime Museum but be in charge of the project since it is their land.

Mr. Norton stated that he is hoping to provide the museum with something that is enough of an instrument that they can go ahead and get some funding. The museum can't get funding if they don't have anything in writing that says there is hope that the NRA would provide them with the necessary land.

Ms. Dorfman stated that she understands both sides. The museum can't get funding without a lease of the land. However, she questions whether the NRA wants to get involved with a group that is struggling to survive. Ms. Dorfman thinks the NRA is in a better position to be in the driver's seat to create a museum complex than the museum. It would be beneficial to have the museum advise the NRA as to what would be appropriate, not the other way around. The museum is in such a bad financial position and funding for the arts is just not there.

Attorney Powers stated that the urban renewal plan designated the building for museum use only. Ms. Dorfman stated that that she thought there was a general understanding that the land is to be used for museum use as well. Ms. Powers stated that in the past, the land was used for parking and the city knew it so it would be difficult to say that it is to be used only for museum use.

Ms. Dorfman likes the idea of participating in a consortium but having the NRA keep control. The NRA is in strongest position to make something happen.

Mr. Norton asked if the NRA agreed to a consortium, would that give the Maritime Society some standing to be able to do some fund raising now that they would have a glimmer of hope? Ms. Dorfman asked how the other members feel about restricting the land to some type of maritime museum use. Unless the board is comfortable with that there is no point to discussing it further.

Attorney Powers noted that the NRA joining the consortium would give the museum the ability to move ahead but the NRA should do so without promising exclusive use of the land to the museum. She is concerned that some the members of the consortium, specifically the museum, would come on unequal footing. Ms. Dorfman suggested a public/private consortium.

Mr. Brennan suggested that the NRA should first complete their planning process and then join with other groups. Attorney Powers suggested that the NRA talk to the Custom House and let them know that the idea is premature because the NRA would like to talk to everyone involved.

There was general discussion of the consortium in regard to concept/vision, allowing the museum to get funding, and who should take the lead in discussions. Attorney Powers thinks the NRA should take the lead because they are positioned to have a long term vision for the area.

Mr. Norton stated that it would be helpful if Attorney Powers drafted a letter of intent and understanding to Mark Gay. Attorney Powers said that she will draft a letter but will also discuss

it with Mr. Gay so that he understands that the NRA does not want to put the museum off indefinitely. They just want to finalize their conceptual plan first.

Mr. Norton said that there does not appear to be a problem with how the museum has been handling use of the lawn.

East Row Condominium Parking Agreement:

Mr. Norton stated that when the land was sold to the condo association there was a need for parking. There was a provision that the NRA would provide the difference between the number of parking spaces approved and the number of existing spaces. Mr. Norton understands that the NRA has an ongoing obligation to provide parking.

Lisa Mead, the applicant's attorney, stated that the land was originally owned by the NRA. East Row Condominiums has 18 spaces in their parking lot. They require 53, thus a provision was added that the NRA would provide 35 spaces until public parking was built within 300 feet of the East Row Condominiums. Attorney Mead thinks that the 35 spaces need to be available and dedicated to East Row. The applicant would like the obligation to be memorialized even though it is stated in the deed. Attorney Mead said that the residents of East Row should not be charged for parking and that there should be a deed restriction. East Row is farther than 300 feet from Green Street parking lot so that is not an option to provide public parking for the residents of East Row. Attorney Mead also does not think that it is public parking because it is privately controlled. Mr. Turner stated that the parking is open to the public so it's public parking. Mr. Taintor stated that is a distinction between city-owned and public parking. There is no obligation for the NRA to convey the land to the city.

Attorney Mead is concerned about the perpetual nature of the provision and her client would like to see a deeded right to 35 parking spaces for the East Row Condos. Attorney Mead stated that if the easement and variance are read together, there is a requirement to provide 35 parking spaces. Mr. Brennan reads the variance to say that the 35 parking spaces are describing the public parking facility. Attorney Mead stated that the NRA needs to provide parking at no cost to the East Row residents until there is public parking available/constructed. The future public lot can be free or paid.

Attorney Powers stated that in talking with Attorney Mead, they agreed that there should be something in writing that will provide 35 public parking spaces for the East Row residents. There is an easement on the parcel for 19 parking spaces to East Row and a variance that obligates the NRA to provide the remaining 35 spaces.

Mr. Turner asked if there is an instrument that is currently on record that specifically states the NRA's obligation. Attorney Powers said that there is only an easement in place until public parking is created. No matter what happens with this land, 35 parking spaces will be provided. There has been no follow up paperwork since that time.

Mr. Turner asked what was created or existed for parking at the time that the variance was created. Attorney Powers stated that the existing parking was not in perpetuity, not exclusive, and not free. Something needs to be drafted, such as a letter of intent that when the public

parking is built there will be a minimum of 35 parking spaces. The deed states this but it is the deed to East Row, there is no document on public record.

Attorney Mead noted that her client is trying to take care of any potential litigation down the road so that every time the area is redesigned people are not knocking on the NRA's door. She would like to see in writing that there will be 35 parking spaces, at a minimum, unless the city builds a parking lot within 300 feet of the East Row Condominiums.

Attorneys Powers and Mead will work out the legal language of the document.

Correspondence/News:

a. Contact from Harbormaster – Dock storage in east lot

The Harbormaster calls every year and asks for approval to store the docks in the east lot. Mr. Norton told him that it would be fine to do so.

b. Meeting with Mayor, WFT, Harbor Commission

There was a second meeting with the Mayor. The discussion was similar to the first meeting where the Mayor asked about the waterfront, if various groups were working well together, and to discuss parking. The Waterfront Trust is committed to getting a different parking system going by next year. The Mayor's response was that it doesn't look like they are going to be able to have paid parking installed by the spring. The Mayor agreed to meet next month with the NRA and the Waterfront Trust to list all the details that need to be worked out on this issue. Mr. Norton will express to the Mayor that the NRA does not want to be the only ones in the city that charge for parking. Mr. Shanley stated that it would be questionable for the NRA to charge for parking before the city does and that they should work with the city to come up with a uniform plan.

c. Meeting with Tony Green

Several NRA members have met with Tony Green. Mr. Norton met with him to discuss parking in Newburyport. There was no opposition from Mr. Green to an expanded park but he is really primarily focused on parking. Waterfront West will provide as much parking as necessary for the business it will generate. They are contemplating between 500-800 parking spaces. If everyone shows up, they want to have enough parking. Mr. Shanley stated that he believes they are planning for the most successful day they can have on Waterfront West with that number of parking spaces. He is concerned that they are over-parking the site.

General discussion on the amount of potential parking necessary.

Mr. Norton stated that he did not leave the meeting with any action items but he did suggest a comprehensive parking study so that the typical work week could be captured. This will allow them to know where the demands for parking are in the city. Mr. Turner thought it would be great if New England Development worked with the city on this study.

Mr. Shanley noted that the NRA should not be concerned with planning the city around people's "windshield view" of the river. People at the public meeting were objecting to proposed buildings blocking their view of the river as they drove through downtown.

Park Planning:

a. Feedback from public meeting

Mr. Taintor stated that there seemed to be a general feeling from the public that the NRA was trying to do too much, being too formal about it, and trying to satisfy too many demands. There seemed to be a general consensus that the plan proposed too many parking spaces. The members of the public seemed to think that the NRA was going in the right direction but were overly enthusiastic about the plan.

Mr. Shanley stated that he found the meeting to be a discouraging and deflating experience. He thought that people felt that the plan was overly ambitious and that it would be better if it was just grass and as little parking as possible. These are comments but he felt that he was hearing directives that they were supposed to incorporate into the plan. He thinks they should be listened to but that the NRA does not have to feel obligated to do everything that was suggested.

Mr. Norton felt that the comments averaged somewhere in the middle of what Mr. Taintor and Mr. Shanley stated. He heard people saying “keep it simple” and to try not to do everything. The NRA and the city need to figure out what that space there really needs.

Ms. Dorfman stated that the NRA park is part of the city’s downtown. They are trying to build an interactive area for the city that feels alive, energetic, and that will feed the downtown. She does not believe the NRA can worry about what is available at the Mall or other areas of the city. Ms. Dorfman sees this land as crucial to the city. She would be interested in putting together some sort of public relations plan so that people can see the overall view, not just the wants/desires of individual residents.

Mr. Shanley stated that the NRA may have to do a road show so that they can present their plan to smaller groups, like the Mother’s Club.

Mr. Norton stated that there is not a good demographic cross section of the city that attends the public meetings. Presenting to small groups and developing a website would allow them to get the message out as it evolves.

Mr. Brennan stated that he heard both positive and negative comments at the meeting, but overall, he got the sense that the public thought they had struck a nice balance. Ms. Dorfman noted that people liked the scale of the plan.

Mr. Taintor stated that continued retail activity is his vision. The plan should propose buildings for their own reason, not just to finance parking.

The board would like to have a special meeting to craft a vision statement for the park and then have Cecil complete the plan.

Mr. Shanley thinks the NRA needs to get back to the roots of redeveloping the land. He does not want the board to just focus on creating buildings but on how to energize the land and the city. There are things about the historic roots of the NRA that worked. The NRA needs to generate activity to activate the public spaces around the land.

The board would like to see their plans integrate with Waterfront West for a more cohesive waterfront. Mr. Norton would like to see some of the components of the NRA plan meld with the Waterfront West plan.

The special meeting is scheduled for October 14, 2008 at 7PM.

NRA legal representation needs - Discussion with Carol Powers

Mr. Norton stated that there has been a long hiatus without Ms. Power's participation. Attorney Powers had even suggested that the NRA switch their legal representation. Tonight is an opportunity to discuss with her how to move forward.

Attorney Powers apologized that she hasn't been as available to the NRA for the past few years. She stated that she had a personal situation but that there was also a former member who felt very strongly that there shouldn't be as much legal representation and that she should not attend meetings. So she did not feel like she should attend meetings and was aware that her attendance costs the NRA money. She very much wants to continue involvement with the NRA. Her practice is back up and running and she has rented space in Danvers, MA. Attorney Powers noted that no attorney can specialize in everything these days. Therefore, there may be areas that she would be glad to suggest that they hire a specialist. Attorney Powers asked the board to give her a sense of what would be useful when she attends meetings. Historically, it has seemed then when she does attend meetings, it is much easier to deal with situations if the NRA has a continuing dialogue with her and can turn and ask for her legal advice at meetings. She started working for the NRA in 1991, so she is also happy to meet with any members to go over the history of the NRA. Discussion of how often Attorney Powers should attend meetings.

Attorney Powers will bring a stipulation agreement to the next meeting. The deed to the waterfront trust is based on the stipulation agreement and this will be a good place to start, historically. She will also check for any encroachments on the property.

Mr. Shanley motioned to adjourn the meeting, Mr. Taintor seconded, and all voted in favor.

The meeting adjourned at 10:05 P.M.

Sincerely,

Jennifer Stone
Minute Taker