

AD HOC CENTRAL WATERFRONT COMM. – REPORT TO FULL COUNCIL, MAY 2, 2017

The *Ad Hoc* Central Waterfront Committee was charged to develop policies and objectives regarding a long-term vision for the Central Waterfront, including number of parking spaces, land ownership, and operational and maintenance responsibilities, subject to full Council approval. The Committee recommends that the City Council endorse the following terms of a final settlement.

Executive Summary of Proposed Settlement:

- Extraordinary treatment for Central Waterfront to resolve 40 years of dispute
- With state approval, City binds self to fund maintenance and repair of expanded public park
- NRA grants all but one upland parcel to Waterfront Trust for expanded public park use
- Waterfront Trust affirms City's exclusive rights to public parking and water-dependent uses
- Construction of expanded park contingent upon raising capital funds

1. Master Plan reconciling Sidford-Uhlig Plan + COW Plan + Andy Port Plan

- a. Expanded Market Landing Park, including widened shoreline berm
- b. Reconfigured West Parking Lot and East Parking Lot
- c. Dimensions and locations of "Ways" settled for all time
 - i. All ways perpendicular to shore
 - ii. Non-vehicular Central Wharf Way aligned with Unicorn Street
- d. Clipper City Rail Trail passes through as a "loop"
- e. Firehouse Center controls patio as facility of public accommodation, as today
- f. Custom House controls land back to bulkhead, subject to current public uses
- g. Harbor Master controls all water-dependent uses (docks), as today
- h. City controls upland parcel on Merrimac Street west of Central Wharf Way

2. Waterfront Trust reorganizes, such that:

- a. Board of Trustees increases to seven (7). Mayor appoints five (5) and City Council appoints two (2). First two appointed by Council = 1 NRA member + 1 Settlor.
- b. One trustee serves ex-officio on Harbor Commission, and vice versa.
- c. No further role for 1980 litigants (Settlers) or the NRA
- d. Primary mission = stewardship of "public park"
- e. Acts as City commission: open meeting, conflicts of interest, & public records laws
- f. Can grant easements solely to City for public purposes, and below market rates
- g. Duty to charge reasonable usage fees for public park
- h. Audit and other enforcement rights by City Council and citizens
- i. Amendments require 2/3 Trustees + 2/3 City Council + Attorney General

3. City binds itself legally to fund operation and maintenance of expanded public park:

- a. No explicit link to parking fees, dockage fees, or any other revenue sources



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- b. Instead special state legislation eliminates need for annual budgetary appropriation
 - i. Agreed-to park size and basic features
 - ii. Agreed-to maintenance and replacement schedules
 - iii. Annually, no less than \$100,000 + \$1/sf of add'l parkland, and no more than \$250,000, adjusted for inflation using agreed-to Consumer Price Index (CPI)
 - iv. WT able to enforce by injunction without normal showing, and/or, after a cure period, by reversion of City's exclusive public parking rights to WT
 - v. Backed by full faith and credit of City of Newburyport
 - c. Create ca. \$1 million endowment fund for operations and maintenance
 - i. WT and NRA contribute their current reserves (ca. \$500,000)
 - ii. Principal cannot be spent
 - d. City not obliged to fund construction of capital improvements
4. NRA grants 100% of its land, with no "deadline" for agency dissolution
- a. WT accepts:
 - i. Bulkhead, but City gets right to access for public water-dependent uses
 - ii. Riverside Pk./Somerby Way, but City gets exclusive public pkg. rights
 - iii. West Parking Lot, but City gets exclusive public parking rights
 - iv. East Parking Lot, but City gets exclusive public parking rights
 - v. Scrap of land east of Railroad Avenue
 - vi. Non-exclusive easement for telecommunications at Firehouse Center
 - b. City accepts:
 - i. Firehouse Center patio, but restricted to use by City's non-profit tenant
 - ii. Submerged lands, but restricted to public water-dependent uses, including mandatory public excursion vessel use along westernmost 200 linear feet.
 - iii. Land behind Custom Hse. to bulkhead, but restricted to use by Custom Hse. non-profit, subject to existing public uses, under a new 99-year lease
 - iv. Upland parcel on Merrimac Street west of Unicorn Street. Covenant to WT requires any building to include public restrooms and forbids dwellings.
 - v. Non-exclusive easement for Clipper City Rail Trail (Mass. rights, too)
 - vi. Non-exclusive easement for underground utilities
 - vii. Non-exclusive easement for operations and maintenance
 - viii. Vehicular public way through Riverside Park (Mass. rights, too.)
 - ix. Exclusive public parking rights, as part of City system (resident privileges)
 - x. Exclusive public water-dependent use rights, under Harbor Master
 - xi. Non-exclusive access rights for public safety services
 - c. Accurate surveys and subdivision maps to be recorded
5. Parties agree to cooperate reasonably regarding planned public park expansion
- a. NRA to resolve Activities Use Limitation (AUL) with US EPA
 - b. City to assist in identifying grants to fund construction of capital improvements
 - c. Waterfront Trust obliged to build capital improvements only once funding in place

