

Newburyport Redevelopment Authority
City Hall Auditorium
July 15, 2019
Minutes

1. Call to Order

Chair Andy Sidford called a meeting of the Newburyport Redevelopment Authority to order at 7:07 p.m.

2. Roll Call

In attendance were members Leslie Eckholdt, Andy Sidford, Patty Moore, David Tibbetts and Rich Person. Also in attendance was Attorney Kathleen O'Donnell.

3. Dumpster and Recycling Enclosure

Trash is being left on the ground outside the dumpsters. David St. Cyr was coordinating the construction of the dumpster enclosure and has been removed from the NRA. Rich Person will assume the responsibility for the completion of the enclosure.

4. Central Waterfront Parcel Disposition

The only property scheduled for disposition is one parcel of registered land behind the Custom House that was to be deeded to the City. The title is still in the name of the original owner. Kathleen O'Donnell filed a petition with the Land Court in November and received an order at the end of June. She could prepare a draft deed or could send the order to City Council. No further parcel disposition is planned.

5. Open Meeting Complaint

The City filed a complaint with the Office of the Attorney General stating that the NRA violated the Open Meeting Law and with the Office of the Inspector General claiming the NRA violated the Uniform Procurement Act. The City wants the NRA to recognize that the vote to execute the deed violated these two laws, to void the deed and to postpone any future depositions. Kathleen O'Donnell said it would not be possible to void the deed, which has been accepted by the Waterfront Trust and recorded. She said adequate notice for the meeting was given and the issue has been discussed for several months. Mayor Holaday attended the May 14 meeting, at which she requested that the vote to transfer the submerged tidelands to the Waterfront Trust be postponed until after an upcoming City Council meeting, and she sent counsel to the June 11 meeting. Attorney O'Donnell sent Mayor Holaday and the City Solicitor copies of the draft deed prior to the June 11 meeting.

Attorney O'Donnell said the disposition of the tidelands was exempt from the Uniform Procurement Act on two grounds. First, exemptions exist for intergovernmental transfers and the Waterfront Trust is a quasi-governmental body. Second, transfers for property with a value of less than \$35,000 are exempt. She said the submerged tidelands have no value because the NRA does not lease them or collect revenue from them and has not transferred any rights to collect money.

Leslie Eckholdt said she believes adequate notice for the vote to convey the tidelands had been given. The item had been on the agendas for the May 14 and June 11 meetings. Mayor Holaday asked at the May meeting that the vote be delayed and sent an attorney to the June meeting to represent the City. She also said Attorney O'Donnell sent the draft deed to the Mayor and sent an email to the Mayor and City Council indicating the intention to execute it at the next NRA meeting. Andy Sidford said he thinks the action was adequately noticed. He said the NRA has been working cooperatively with the City and the Trust. The intention of the NRA has been on working in the best interests of the citizens of the city, which involves designing and building the park and funding its maintenance in perpetuity. Patty Moore said the agenda for the June 11 meeting did not indicate the deed would be executed that evening and she does not believe the public was informed. Rich Person said many members of the community would not have known the vote was to take place and would have cared about it.

The meeting was opened to comments from the public. Planning Director Andy Port said the agenda did not indicate a plan to transfer the property at that meeting. He also said the City expected the Trust instrument would be amended before any land transfer took place. Andy Sidford responded Mayor Holaday and Attorney Lyman were present at the meetings during which the intention to vote on the transfer was discussed and did not remark at that time that the meeting notice was inadequate. Steve Hines noted the NRA has no authority to amend the Trust document and Trustees do not intend to take any such action at this time.

City Councilor Sharif Zeid said he had been at City Hall the evening of June 11 and did not attend the NRA meeting because the agenda did not indicate a vote to transfer the property would be taken at that time. He said the NRA should resolve any issues that would arise from joint ownership, such as liability and revenue sharing, before the property is conveyed and he requested that the vote be rescinded.

Lon Hachmeister said the Waterfront Trust was amenable to joint ownership. Nick Metcalf reiterated that the Mayor attended the May 14 and sent an attorney to the June 11 meeting. Bill Harris pointed out that Mayor Holaday said at the May meeting that she does not object to the co-ownership of the tidelands. He said adequate notice was given and both the Mayor and City Council knew of the intention to transfer the tidelands. In addition, the City has been diverting money from the tidelands for years.

The NRA received an extension of time to respond to the City's complaint. Attorney O'Donnell will send a response to the Office of the Attorney General stating the meeting and agenda was properly posted. She will also respond to the Office of the Inspector General that the conveyance was exempt from the Uniform Procurement Act on the grounds that the value of a 50% interest in the tidelands does not \$35,000.

6. Treasurer's Report

Leslie Eckholdt reported that on June 30 the balance in the money market account was \$417,400.09 and the balance in the checking account was \$116,19.64.

Andy Sidford moved to approve payments to the Waterfront Trust in the amount of \$1,043.82 for the monthly park maintenance agreement; Gretchen Joy in the amount of

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\$165 for minute taking for the July 15 meeting; and Gretchen Joy in the amount of \$17.57 for supplies for the Pop Up Park. Leslie Eckholdt seconded the motion. The motion was unanimously approved.

At the previous meeting \$2,000 was approved for planting pachysandra along Somerby's Way. Leslie Eckholdt said she has paid Sandy Aldrich \$420 for weeding and plans to purchase pachysandra in the fall for \$1,100. She requested an additional \$1,000 to pay Dave Dylewski and Sandy Aldrich to plant the pachysandra. Andy Sidford moved approve the request. Dave Tibbetts seconded the motion. The motion was unanimously approved.

Andy Sidford moved to approve an advanced retainer for Kathleen O'Donnell in the amount of \$1,000. Leslie Eckholdt seconded the motion. The motion was unanimously approved.

7. Park Use Applications

The artist shanties have been moved from Waterfront Trust land near the west lot to NRA property near the east lot. David Tibbetts moved to approve the placement of the shanties in their current location. Patty Moore seconded the motion. The motion was approved with Leslie Eckholdt voting against it.

Andy Sidford moved to approve an application from the Chamber of Commerce for the Misselwood Concours d'Elegance on Saturday, July 20 from 9:00 a.m. to 11:00 a.m. in the east lot. Patty Moore seconded the motion. The motion was unanimously approved.

8. Minutes

Rich Person moved to approve the minutes of the June 15, 2019 meeting as amended. Andy Sidford seconded the motion. The motion was unanimously approved.

9. Adjournment

Andy Sidford moved to adjourn the meeting at 8:30 p.m. Leslie Eckholdt seconded the motion. The motion was unanimously approved.